

LIABILITIES OF CHOCTAW INDIANS TO INDIVIDUALS.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING

*Certain information relative to the amounts of liabilities due from the Choctaw tribe of Indians to individuals.*

DECEMBER 23, 1874.—Referred to the Committee on Appropriations and ordered to be printed.

SIR: By the third section of the sundry civil appropriation act of June 23, 1874, the Secretary of the Treasury is "directed to inquire into the amounts of liabilities due from the Choctaw tribe of Indians to individuals, as referred to in articles 12 and 13 of the treaty of June 22, 1855, between the United States and the Choctaw and Chickasaw tribes of Indians, and to report the same to the next session of Congress, with a view of ascertaining what amounts, if any, should be deducted from the sum due from the United States to said Choctaw tribe, for the purpose of enabling the said tribe to pay its liabilities, and thereby to enable Congress to provide a fund to be held for educational and other purposes, for said tribe, as provided for in article 13 of the treaty aforesaid."

For the purpose of obtaining the most authentic and complete information on the subject involved in such inquiry, as was presumed to be officially accessible, I addressed a letter to the Second Comptroller, asking him to collect and report to me such information as he might be able to obtain in any of the Bureaus of this Department, and of the Interior Department, or elsewhere, which in his judgment might assist me in complying with the request of Congress.

Application was accordingly made to the Department of the Interior, and copies of the correspondence and reports connected therewith are herewith submitted as follows:

1. Letter from Acting Second Comptroller to the Secretary of the Interior, dated September 10, 1874.
2. Letter from same to Secretary of the Treasury, dated September 25, 1874.
3. Letter from the Secretary of the Interior, dated September 24, 1874.
4. Letter from Commissioner of Indian Affairs, dated September 21, 1874.

5. Reports from the Indian Bureau, dated respectively May 15, 1858, and March 22, 1860.

These reports were found, upon examination, to relate mainly to the proceedings originally had for the purpose of ascertaining the sum due the Choctaws under the treaty of 1855, and were insufficient to enable me to furnish the desired information respecting the liabilities in question. Recourse has therefore been had to such other sources of information as were available, including the printed reports of committees of the respective houses of Congress on the general subject of the Choctaw claims, and a formal statement of the said liabilities, addressed to the Secretary of the Treasury by P. P. Pitchlynn, Choctaw delegate, under date of July 10, 1874, for the express purpose, as he states, of facilitating the inquiry contemplated by Congress. This statement has since been formally sanctioned by the general council of the Choctaw Nation, as appears by their memorial dated October 29, 1874, a copy of which, and of the statement referred to, accompanies this report.

From this statement it appears that the liabilities to individuals, by which are intended the claims of individual Choctaws assumed by the Choctaw Nation in consideration of the award made by the Senate under the treaty of 1855, are divided into four classes, viz:

*First.* Those arising under the fourteenth article of the treaty of 1830, which gave to each head of a Choctaw family, desiring to remain in the States, a section of land, together with a half-section for each child over, and a quarter-section for each child under ten years of age at the date of the treaty, on condition that, within six months after the ratification thereof, the intention to remain was signified to the agent of the United States. It is alleged in said statement that the records of the Indian Office show that 1,585 families claimed the benefit of this article, but that only 143 secured the land to which they were entitled; that 1,442 families lost their homes, of which number 1,150, after struggling fifteen years, succeeded in obtaining partial indemnity, and that the remaining 292 families have never received any compensation whatever for their losses.

|  |                  |
|--|------------------|
| The original claims of the 1,150 families appear, by the statement, to amount to .....   | \$1,798,400      |
| Of the 292 families, to .....  | 405,400          |
| <b>Total under article 14 .....</b>  | <b>2,203,800</b> |
| <i>Second.</i> Claims of families who failed to obtain allowances to which they were entitled under article 19 of the treaty of 1830 .....   | 451,800          |
| <i>Third.</i> Claims for expenses of 960 "self-emigrants," and for 18,669 head of cattle, horses, &c., lost by compulsory emigration .....   | 203,706          |
| <i>Fourth.</i> Claims of 2,000 Choctaws, who emigrated before the year 1830, being for their interest in the ceded territory .....   | 356,792          |
| <b>Aggregate amount of claims without interest .....</b>   | <b>3,216,098</b> |
| According to the statement, interest will have to be allowed, by the Choctaw authorities on claims of the first and third classes for periods varying from 23 to 40 years, and which, calculated at 5 per cent. per annum, amount to ..... | 2,223,453        |
| <b>Making an aggregate, principal and interest, of .....</b>   | <b>5,439,551</b> |

The number of claimants of the first class is stated as follows:

|   |              |
|---|--------------|
| Heads of families who received partial compensation ..... | 1,150        |
| Children over ten years of age .....                      | 1,468        |
| Children under ten years of age .....                     | 1,215        |
|   | <b>3,833</b> |

|   |     |        |
|---|-----|--------|
| Heads of families who received no compensation..... | 292 |        |
| Children over ten years of age.....                 | 291 |        |
| Children under ten years of age.....                | 277 |        |
|   |     | 860    |
| Total number of claimants of the first class.....   |     | 4, 693 |

The claims of the second and third classes are also said to be on file in the Indian Office, but the number is not given. Of the fourth class, it is said, no claims have ever been filed.

It is further alleged that "full accounts of the 14th-article claims," (which constitute more than two-thirds of the entire amount,) "of the evidence by which they are supported, and of what the claimants have heretofore received, may be found in the Department of the Interior."

For further details of the said claims and for the evidence of their validity, I respectfully refer to the aforesaid memorial and statement, to the records and files of the Indian Bureau, and to a supplementary statement signed by Mr. Pitchlynn, dated November 27, 1874, a copy of which also accompanies this report.

It is obviously impracticable for the Secretary of the Treasury to ascertain, with any degree of precision, the actual amount of the liabilities in question, as assumed and to be paid by the Choctaw Nation to individual claimants, involving, as it would, a separate examination of each claim and of the evidence supporting it. Nor could such action, if practicable, take the place of a final adjudication of each claim; a power vested, by the express terms of the treaty of 1855, in the proper authorities of the Choctaw tribe as a concomitant to the transfer of liability from the United States to the tribe. A tribunal for this purpose, it appears, was established in the year 1859, under an act passed by the general council of the Choctaws, a copy of which accompanies this report. It further appears that, by a resolution of the council, passed in the same year, the governor of the Choctaws was "requested to forthwith address the Commissioner of Indian Affairs, at Washington City, asking him to transmit to the United States agent, for this nation, copies of all the names of individual claimants, under any former treaty, with the accompanying evidences of such claims, in order to enable the proper authorities of this nation to carry out the provisions of the 12th article of the treaty of June 22, 1855." (Laws of the Choctaw Nation, as published in 1869, pp. 204, 210.)

The application thus authorized was, it is said, accordingly made, but without success, and although frequently repeated has never been complied with. I deem it proper here to refer to the fact that, as appears by the supplementary statement before mentioned, this information was sought for the purpose of identifying claimants, and thus enable the Choctaw authorities to make a proper distribution of the proceeds of the amount of the Senate award. The validity and justice of the several classes of claims was, it would seem, conceded by said authorities to an amount far exceeding the sum to be realized under that award; but they necessarily awaited its receipt before proceeding to the payment in whole or in part of individual claims.

It being, as I have shown, impracticable for the Secretary of the Treasury to ascertain the amount of existing "liabilities," the payment of which is to be provided for, I cannot, of course, state how much, if any, of the sum due under the award will remain for an educational fund.

It is alleged on the part of the Choctaws not only that there will be no such balance, but that, unless Congress shall, as recommended by two several committees at the last session, allow interest on the award,

the balance due them will be inadequate to satisfy valid and subsisting individual claims.

In this connection, I deem it proper to remark that while the act of June 23, 1874, by which this inquiry was directed, is apparently intended to provide a trust-fund for educational and other purposes, for the benefit of the Choctaw people, such fund, as a matter of fact, is already in existence, under the provisions of existing treaties, and the balance of the award, if any should remain, would go as an addition to such existing fund, not to create one.

The results of the inquiry directed by Congress may be briefly summarized as follows:

|   |                |
|---|----------------|
| Amount of liabilities from the nation to individuals, without interest..                | \$3,216,098 00 |
| Amount of liabilities from the nation to individuals, with interest.....                | 5,439,551 00   |
| Amount of "net proceeds" or "sum due" as ascertained under the award of the Senate..... | 2,981,247 30   |
| Less payment on account.....  | 250,000 00     |
| Balance of award, exclusive of interest.....  | 2,731,247 30   |

As the question of the sum due from the United States to the nation has been the subject of long and careful consideration on the part of Congress, extending over many years, and as the act directing inquiry does not require it, I do not feel called upon to make more than a passing allusion to the matter in this connection, and I express no opinion as to the amount or any amount as liquidated or justly due from the United States.

The amount above named as due is that sum fixed upon in the report of the Secretary of the Interior May 8, 1860, under the resolution of the Senate March 9, 1859, based on the 11th article of the treaty.

It is referred to in several reports of committees of the respective houses of Congress as follows:

Report of Senate Committee on Indian Affairs, No. 318, 42d Congress, 3d session.

Report of House Committee on Indian Affairs, No. 80, same session.

Report of House Committee on Appropriations, No. 391, 43d Congress, 1st session.

Report of House Committee on Indian Affairs, No. 599, same session.

The credit of \$250,000 is a cash payment to the accredited agents of the Choctaw Nation under an act entitled "An act making appropriations \* \* \* \* for fulfilling treaty stipulations with various Indian tribes," approved March 2, 1861.

The sum of \$500,000 was appropriated on account of the claim of the Choctaws under the treaty of 1855, but, for reasons growing out of the rebellion affecting the peaceful relations theretofore existing between the Choctaws and the National Government, the payment of the other half of the appropriation was suspended by the Secretary of the Treasury.

Although friendly relations were restored by the treaty of April 28, 1866, the United States re-assuming its former obligations in the premises, doubts had in the mean time arisen as to the power of the Secretary of the Treasury to complete the payment authorized by the act of 1861 by delivering bonds for the remainder. And notwithstanding the opinion of the Attorney-General, 15th of December, 1870, 13 Op., 354, in favor of such delivery, it was not made, and appears subsequently to have been postponed for an indefinite period.

On the 6th of June, 1872, the Secretary of the Treasury transmitted to the President of the Senate a report made by the Solicitor of the

Treasury, under date of May 29, 1872, adverse to the issue of said bonds, or to any further appropriation on the basis of the account stated under the award of the Senate. In a second report, dated November 14, 1872, and transmitted by the Secretary to Congress January 6, 1873, the Solicitor reiterated his former opinion, elaborately setting forth his reasons therefor.

The Senate Committee on Indian Affairs subsequently examined the Solicitor's objections in detail, but, according to their report before referred to, (No. 318,) did not regard them as conclusive. The same opinion was also substantially entertained by the House Committee on Indian Affairs, according to their report before referred to, (No. 80.) The Solicitor's views were, however, so far accepted by the Secretary of the Treasury as to induce him to recommend Congress to delay action on the award for the purpose of further investigation.

I am, very respectfully,

B. H. BRISTOW,  
*Secretary of the Treasury.*

Hon. JAMES G. BLAINE,  
*Speaker of the House of Representatives.*

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TREASURY DEPARTMENT,  
SECOND COMPTROLLER'S OFFICE,  
September 10, 1874.

SIR: I herewith transmit a copy of a letter received from the Secretary of the Treasury, relative to certain liabilities due from the Choctaw tribe of Indians to individuals, as referred to in articles twelve and thirteen, treaty of June, 1855, (11 Stat., p. 614,) with the Choctaw and Chickasaw Indians, and requesting the Comptroller to collect and report to him such information as he, the Comptroller, may be able to obtain in the Bureaus of the Treasury Department and the Interior Department, or elsewhere, which in his judgment may assist the Secretary of the Treasury in complying with the requirements of the act referred to in the Secretary's letter.

I have therefore respectfully to ask the Secretary of the Interior, at his earliest convenience, to forward to this Office, for the use of the Secretary, such information as can be obtained from the records of the Interior Department.

E. B. CURTIS,  
*Acting Comptroller.*

Hon. C. DELANO,  
*Secretary of the Interior.*

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TREASURY DEPARTMENT,  
SECOND COMPTROLLER'S OFFICE,  
September 25, 1874.

SIR: Referring to your letter of the 8th instant to the Second Comptroller, relative to the third section of the act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1875, which directs the Secretary of the Treasury to inquire into the amounts of liabilities due from the Choctaw tribe of Indians to individuals, as referred to in articles twelve and thirteen of the treaty of

June 22, 1855, &c., I have the honor to reply that the records of the Treasury Department afforded no information relative to this subject. I therefore referred your letter to the Secretary of the Interior, with request that he would give the desired information at his earliest convenience.

I received this morning a letter from the Secretary of the Interior, transmitting to this Office a copy of the letter of the Commissioner of Indian Affairs upon the subject, also copies of reports purporting to give the information asked for in your letter.

I herewith inclose all the papers received, with the Secretary's letter, a copy of which is also inclosed.

Very respectfully,

E. B. CURTIS,  
*Acting Comptroller.*

Hon. B. H. BRISTOW,  
*Secretary of the Treasury.*

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DEPARTMENT OF THE INTERIOR,  
*Washington, D. C., September 24, 1874.*

SIR: I acknowledge the receipt of your letter of the 10th instant, with a copy of letter inclosed from the Secretary of the Treasury, addressed to your Office on the 8th instant, relative to certain liabilities due from the Choctaw tribe of Indians to individuals, referred to in articles twelve and thirteen of treaty of June, 1855. (Stat., 11, p. 614.)

This matter having been referred to the Commissioner of Indian Affairs, I inclose herewith copy of his letter upon the subject, also copies of reports giving the information asked for in your letter.

Very respectfully,

C. DELANO,  
*Secretary.*

Hon. J. M. BRODHEAD,  
*Second Comptroller.*

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DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, D. C., September 21, 1874.*

SIR: I have the honor to acknowledge the receipt, by reference from the Department, of a letter dated the 10th instant, from the Acting Second Comptroller of the Treasury Department, and copy of a letter dated the 8th instant, inclosed by him, from the honorable Secretary of the Treasury, making inquiry as to the amount of liabilities due from the Choctaw tribe of Indians to individuals, as referred to in articles twelve and thirteen of the treaty of June 22, 1855, with the Choctaw and Chickasaw tribes of Indians. (U. S. Stats., vol. 11, p. 614.)

In compliance with the directions contained in said reference, I respectfully submit, as embodying such information as is in the possession of



this Office upon the subject, copies of reports to the Department, dated May 15, 1858, and March 22, 1860, respectively.

The schedules accompanying the report of March 22, 1860, were transmitted to both houses of Congress by the Department on the 8th day of May, 1860.

The communications inclosed by you are herewith returned.

Very respectfully, your obedient servant,

EDWD. P. SMITH,  
*Commissioner.*

Hon. SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,  
OFFICE INDIAN AFFAIRS,  
May 15, 1858.

SIR: The communication of the 31st March last, from the chairman of the Committee on Indian Affairs of the Senate, containing a series of queries in relation to the case of the Choctaw Indians, arising under the 11th article of the treaty of June 22, 1855, was received at this Office on the 2d ultimo, by reference from you for a report thereon.

Immediate measures were adopted for collecting the required information, as far as practicable, and I have now the honor to report the result as follows:

Query 1. What were the instructions given to the commissioners who negotiated the treaty with the Choctaws, of September 27, 1830, as to the inducements to be held out to those Indians to influence them to consent to a relinquishment of their lands in Mississippi?

Answer. No written instructions were given to those commissioners.

Query 2. What was the nature of the tenure by which they held those lands—whether the mere Indian title or otherwise?

Answer. The Indian title.

Query 3. Did they also, at and before the treaty of 1830, own their present country west of Arkansas, and how did they acquire it?

Answer. Said country was ceded to them by the United States, in the 2d article of the treaty of 1820, in part consideration for the cession made by them to the United States by the first article of that treaty of a portion of the country east of the Mississippi; the object of that cession to them in the West being, as stated in the preamble to the treaty, to provide them "with a country beyond the Mississippi River, where all who live by hunting and will not work may be collected and settled together."

Query 4. Was it the policy of the Government, at or about the date of said treaty, to concede to the Indians treated with the proceeds of the sale of the lands relinquished by them to the Government, and in what cases, other than the Choctaws, were treaties made on that basis?

Answer. There was no settled policy at the time referred to. No treaties were made on that basis where annuities were granted for a term of years, and the Choctaw treaty was of that character.

By the treaty of 1831, with the Senecas of Sandusky, they were allowed the proceeds of the sale of the lands thereby ceded by them; deducting therefrom the cost of their survey, the minimum price of the public lands, a sum advanced them for their improvements, and the cost for erecting for them a saw and grist mill, and a blacksmith-shop at their new home in the West; the United States stipulating to give them a country there in fee-simple, to defray the expense of their removal to it, of subsisting them for a year thereafter, and of maintaining the mills and blacksmith-shop for such term as the President might think proper.

The treaties made the same year with the Senecas and Shawnees of Lewiston, the Shawnees of Wapaghkonetta, and the Ottawas, were of a precisely similar character, except that instead of a minimum price of the public lands, seventy cents per acre was to be deducted from the proceeds of the sale of their lands.

For the cession made by the Chickasaws in 1832 the United States agreed to pay them the entire proceeds of the sale of their lands, after deducting the cost and expenses of their survey and sale. These were the only treaties of this kind about the period named.

Query 5. What were the principal inducements held out to the Choctaws by the commissioners who negotiated the treaty of 1830 to influence them to relinquish their lands?

Answer. As properly the treaty is to be considered as containing the principal inducements which led the Choctaws to join in it, it is presumed that the committee de-

sire to know what were the reasons and arguments made use of by the commissioners to influence the Choctaws to take that step. The only official information on this point in the possession of this Office is contained in the journal of the commissioners, extracts from which, consisting of the material portions of their "talks" or speeches to the Choctaws, are hereto appended, marked A.

Query 6. What evidence is there on file or within the knowledge of the Department that the Choctaws were promised or led to expect by the commissioners that they should receive the full actual value of their lands if they would enter into the treaty?

Answer. No evidence that the Choctaws were to receive the proceeds of the sales of the lands ceded, is within the knowledge of the Department.

Query 7. Whether there is any report or statement from the commissioners or either of them to the effect that the 18th article of the treaty was inserted for the purpose of securing to the Choctaws the full actual value of their lands, in conformity with any promises or inducements made or held out to them to that effect?

Answer. No such report or statement is known to this Office.

Query 8. Whether there was or has been any contemporaneous or subsequent construction given to the treaty by the Secretary of War or the commissioners, or either of them, as to the Choctaws being entitled to the proceeds of the sales of the lands relinquished thereby, and if so what was such construction?

Answer. This Office is not aware of any such construction having been given by either of the parties mentioned. In a report of Hon. John C. Spencer, Secretary of War, to the Senate Committee on Indian Affairs, in relation to unsatisfied claims of individuals to reservations under the 14th article of the treaty, he stated that "as the 14th article guaranteed a reservation of so much from the quantity ceded as should be necessary to satisfy the claims arising under it, and stipulated that the land thus reserved should be applied accordingly, the Government became a trustee of the land for that purpose. The sale of the land by the United States cannot vary the nature of the trust; on the contrary, it attaches to the proceeds of such sale, which in truth belong to the Choctaws who were or might become entitled to the land which has thus been converted into money. It is submitted, therefore, that the Government has rightfully no other power or control over those proceeds than over other trust-funds, and that they ought not to be applied to any other purpose than the use and benefit of those to whom they belong." (Senate Document 188, 27th Congress, 2d session, p. 3.)

This decision had reference to individual claims, and Congress, in legislating upon the subject, had authorized the granting of other land or scrip in satisfaction of such claim.

Query 9. What evidence is there, if any, that the Choctaws expected the treaty of 1830 to secure to them the proceeds or full actual value of their lands?

Answer. There is no other evidence known to this Office than their own statements, never made till after the expiration of their annuities under the treaty, that such was their understanding and expectation, based upon the promises of the commissioner and the phraseology of the 18th article of the treaty.

Query 10. What would be the probable or estimated amount or balance coming to the Choctaws by conceding to them, as an equitable rule or basis of settlement of all their claims and demands, whether national or individual, against the United States, the proceeds of the sale of their lands relinquished by the treaty of 1830, so far as sold, and the present graduated rates for the public lands for those remaining unsold, deducting therefrom the average cost of the survey and sale of the lands of the Government, and all payments and expenditures that have been made under and in carrying out said treaty?

Answer. From a statement obtained from the General

|   |                |                |
|---|----------------|----------------|
| Land-Office it appears that the amount realized for the lands thus far disposed of is.....  | \$6,576,483 87 |                |
| Deduct cost of surveying and selling the same, viz, 10 cents per acre, (which the Land-Office states is the average cost of surveying and selling the Government lands) ..... | 827,640 53     | \$5,748,843 34 |
| The Land-Office reports 2,477,255.09 acres remaining unsold, which, at the present graduation price therefor, as given by said office, viz., 75 cents per acre, amounts to... | 1,857,941 31   |                |
| Deduct 10 cents per acre for surveying and selling the same, viz.....   | 247,725 50     | 1,610,214 81   |
| Total .....   |                | 7,359,059 15   |
| Aggregate of payments and expenditures under the treaty.....  | \$2,162,538 97 |                |



|  |                |                       |
|--|----------------|-----------------------|
| Reservations, and scrip in lieu of reservations, obtained by Choctaws under 14th article of the treaty, embracing 1,586,080 acres, at \$1.25 per acre..... | \$1,982 600 00 |                       |
| Reservations obtained under the 19th article, embracing 89,280 acres, at \$1.25.....   | 111,600 00     |                       |
| Reservations obtained under the 15th article, embracing 7,680 acres, at \$1.25.....  | 9,600 00       |                       |
| 21,140 acres reserved for orphans, under 19th article, at \$1.25.....  | 26,800 00      |                       |
| Reservations secured under supplement to the treaty, embracing 75,760 acres, at \$1.25 per acre.....   | 72,200 00      |                       |
|  |                | <u>\$4,365,338 97</u> |
| Balance.....   |                | 2,993,720 18          |

Query 11. The number of acres land relinquished by the Choctaws, by the treaty of 1830, and what is the aggregate of all the payments to them, and all the expenditures made for their benefit under the provisions of that treaty?

Answer. In various published statements heretofore, the aggregate number of acres embraced in the Choctaw cession under the treaty of 1830 is set down at 7,796,000, but in a statement or estimate obtained from the General Land-Office since the receipt of the call of the committee, the number given is 10,753,660.41.

The aggregate amount of the payments under the treaty is shown by the following statement, compiled from the records of this Office:

|  |              |                     |
|--|--------------|---------------------|
| Under the fifteenth article, three chiefs, twenty years.....                   | \$15,000 00  |                     |
| Speakers, secretaries, and captains.....                                       | 20,700 00    |                     |
| Swords and clothes for captains.....   | 5,672 37     |                     |
|  |              | <u>\$41,372 37</u>  |
| Under the sixteenth article, removal and subsistence.....                      | 1,245,203 95 |                     |
| Cattle.....  | 3,865 28     |                     |
|  |              | <u>1,249,069 23</u> |
| Under the seventeenth article, annuity for twenty years.....                   |              | 400,000 00          |
| Under the nineteenth article, amount paid in money for relinquished lands..... |              | 24,640 00           |
| Under the twentieth article, education of forty boys, twenty years.....        | \$267,260 73 |                     |
| Buildings.....   | 10,000 00    |                     |
| Three teachers.....  | 50,000 00    |                     |
| Blacksmiths and millwrights.....   | 53,880 00    |                     |
| Blankets, axes, wheels, looms, plows, hoes, wheels, and cards.....             | 27,097 89    |                     |
| Rifles.....  | 37,500 00    |                     |
|  |              | <u>443,738 62</u>   |
| Under the twenty-first article, Wayne's warriors.....                          |              | 1,718 75            |
|  |              | <u>2 162,538 97</u> |

Query 12. How much of said land would have been absorbed had all the Choctaws availed themselves of the privilege granted to them by the treaty of remaining and taking reservations?

Answer. The only stipulation in the treaty granting in specific terms the privilege of "remaining and taking reservations" is that contained in the 14th article.

The records of this Office show that 1,293 families, embracing 4,397 persons, remained within the ceded territory and presented claims for reservations under the 14th article, which were admitted and for which provision was made in land and scrip to the amount of 1,586,080 acres.

It also appears from the records that before the close of 1833, when the emigration ceased on the part of the Government, 15,000 Choctaws were removed by the United States to the Choctaw country west of Arkansas. If these 15,000 had remained and secured reservations under the 14th article, such reservations, in the proportion of those granted to the 4,397, would have amounted to 5,410,780 acres.

There were also 292 families, numbering 860 persons, who remained in the ceded territory and prosecuted claims for reservations which for various reasons set forth in the reply to the fifteenth question have not been admitted.

If the land embraced in the claims, amounting to 324,200 acres, be added to the number of acres included in the admitted claims, and to the quantity estimated for the 15,000 who were emigrated by the Government before the close of the five years' limitation contained in the 14th article, the aggregate will be 7,321,180 acres, which is the

nearest approximation that this Office can furnish to an estimate of the land that would have been absorbed had all the Choctaws "remained and taken reservations."

Query 13. How many Choctaws did refuse to emigrate at the time of the general emigration of these people and remain east of the Mississippi after the year 1833?

Answer. The operations of the United States in removing the Choctaws ceased in November, 1833. This Office has no means of ascertaining the number of Choctaws that remained in Mississippi at the close of that year. During the year 1838 the efforts to effect an emigration were partially resumed; 177 were removed before the 1st of November, 1838. Nothing more was done by the Government until late in the year 1844 when emigration was again commenced and continued for several years in succession.

On the 22d of September, 1844, before the first party started in that year, the agents of the Department reported the number of Choctaws then remaining east "at about 7,000." The muster-rolls show that 6,007 have been removed since the 1st of December, 1844, and 2,068 were reported by Agent Cooper as still remaining east in July, 1856.

In forming an estimate of the number of Choctaws east after the close of the first general emigration, the fact should not be overlooked that in July, 1845, the then Choctaw agent, Captain William Armstrong, forwarded a list of 839 souls, represented to be a part of the "number who emigrated and subsisted at their own expense subsequent to the general emigration under the Government in 1831-2-3."

Query 14. What number of Choctaws were residing in their country west of Arkansas at the date of the treaty of 1830; and what amount would place them on an equality with the eastern Choctaws under that treaty, taking into view all the amounts required to be paid or expended for or on account of the latter, according to said treaty, and including the reservations obtained by them, estimated at \$1.25 per acre?

Answer. This Office is not possessed of sufficient information to enable it to furnish the answer called for in this question.

Captain McClellan, the agent for the western Choctaws, states in a letter dated 28th September, 1828, that "there are from forty to fifty Choctaws settled on their lands on Red River." In the same letter he says: "At this time there are upward of 1,000 Choctaws west of the Mississippi who are settled on Red River and scattered in small villages in the State of Louisiana; some of them are upward of 300 miles from their lands."

On the 12th March, 1829, he repeats the same statement respecting the 1,000 Choctaws "west of the Mississippi," and adds that he has learned that 150 Choctaws had moved into their own country "to occupy the vacated tenements" then recently left by the whites moving out of Indian country. This information is not sufficiently precise to enable me to state with certainty the number of Choctaws "in their country west," at the date of the treaty of 1830, nor is there any evidence on file to show how far those who were in the country at that time participated in the annuities or other benefits provided by the treaty. It is therefore not in my power to state "what amount it would take to place them on an equality with the eastern Choctaws."

Query 15. The number of unsatisfied claims to reservations under the 14th article of said treaty, and the quantity of land it would require to satisfy them according to that instrument?

Answer. The entire number of claims on file which have not been allowed for reservations under the 14th article is 860, of which 292 are for heads of families claiming one section each, 291 claims of a half-section each for children over, and 277 claims for a quarter-section each for children under ten years of age at the date of the treaty, making an aggregate claimed of 324,300 acres.

Query 16. The reasons why said claimants failed to obtain or were not provided with reservations in accordance with the provisions of the treaty?

Answer. Without going into a detailed history of these claims it will perhaps be sufficient to answer this question in general terms:

First. That the claims of 38 heads, 27 children over and 34 under ten, have never been adjudicated.

Second. That the claims of 191 heads, 226 children over and 195 under ten, were rejected because it did not appear that the claimants occupied their improvements during the full term of five years indicated in the treaty.

Third. That 31 claims, embracing 31 adults, 7 children over and 14 under ten, were rejected because it was not shown that the adults claiming were heads of families.

Fourth. That the claims of 13 heads, 11 children over and 12 under ten, were rejected for want of proof that the intention to remain in the ceded country was signified.

Fifth. That the claims of 5 heads, 8 children over and 3 under ten, were rejected because the witnesses upon whom they relied were impeached.

Sixth. That the claims for 14 heads, 12 children over and 19 under ten, were rejected for various miscellaneous causes.

Query 17. The amount of scrip funded and unfunded, allowed to Choctaws in lieu of reservations which they failed to obtain when the scrip was issued and paid to them,

and what it generally sold for, and for what period or periods was interest allowed and paid on the funded scrip prior to the payment of the principal, under the act of July 21, 1852, to the parties entitled thereto?

Answer. The amount of scrip funded for the benefit of 14th-article claimants by the act of 3d March, 1845, was \$875,000.

Of the unfunded scrip 1,155 pieces were issued in favor of heads of families, being for one half-section each; 1,470 pieces of a quarter-section each, for children over ten; and 1,219 pieces of eighty acres each; for, at the date of the treaty, an aggregate of 702,320 acres.

The following table shows when this scrip was issued and paid:

| Names of agents and when they paid it.  | Heads of families. | Children. |           |
|---|--------------------|-----------|-----------|
|   |                    | Over 10.  | Under 10. |
| John J. McRae, from June, 1843, to March, 1845.....                             | 95                 | 120       | 125       |
| Maj. William Armstrong, from February, 1845, to June, 1847.....                 | 406                | 535       | 460       |
| Col. S. M. Rutherford, from April, 1848, to June, 1849.....                     | 229                | 276       | 169       |
| Col. John Drennen, from August, 1849, to May, 1851.....                         | 143                | 171       | 127       |
| Col. John Drennen, by William Wilson, clerk, from May, 1850, to July, 1851..... | 24                 | 31        | 25        |
| Col. J. H. Bowman, from August to November, 1851.....                           | 253                | 335       | 309       |
| Whole amount paid out.....  | 1,150              | 1,468     | 1,215     |
| Eleven pieces of scrip returned by Colonel Bowman.....                          | 5                  | 2         | 4         |
| Whole amount allowed and issued.....  | 1,553              | 1,470     | 1,219     |

There are no data in this Office from which to ascertain with certainty the disposition made or the amount realized by the Choctaws for their scrip.

The best information in the power of this Office to furnish in regard to the amount or rates realized by the Indians for their scrip, is contained in the accompanying copy marked B, of a memorandum prepared by Commissioner Medill, dated August 26, 1847.

According to a statement on the subject obtained from the Second Auditor, in whose office the accounts of the agent who made the payments are filed, interest on the funded scrip was paid as follows:

|   |            |
|---|------------|
| From April 1, 1845, to December 31, 1846..... | \$7,587 50 |
| From January 1, 1847, to June 30, 1848.....   | 32,455 40  |
| From July 1, 1848, to June 30, 1850.....      | 63,393 13  |
| From July 1, 1850, to June 30, 1852.....      | 67,964 31  |

Query 18. The number and extent of claims for reservations under the 19th article of the treaty: whole amount heretofore allowed in land or money, in satisfaction thereof; and the number and extent of said claims still unsatisfied?

Answer. The reservations under the 19th article are of three kinds:

1st. The several specific quantities granted to David Folsom, and to eight others, amounting in the aggregate to 20 sections.

2d. The various classes of reservations dependent upon the quantity of land the claimant had in actual cultivation.

3d. The provision of a quarter-section each, for the Choctaw orphans.

All of the 20 sections first named have been located except the two reserved for Jo-bo-ke-tubbu.

The next division embraces five sets of reserves, classified according to the number of acres which each head of a family had in cultivation; the treaty providing for the first class, restricted to 40, having 50 acres each in cultivation, 640 acres each; second class, restricted to 460, having 30 to 50 acres each in cultivation, 480 acres each; third class, restricted to 400, having 20 to 30 acres each in cultivation, 320 acres each; fourth class, restricted to 350, having 12 to 20 acres each in cultivation, 160 acres each; fifth class, restricted to 350, having 2 to 12 acres each in cultivation, 80 acres each. And any captain, the whole number not to exceed 90, receiving, under this classification, less than a section, was entitled to an additional half-section.

It was further provided that the reservations secured by the 19th article might be sold with the consent of the President, or that if the reservee preferred it, he might relinquish his land to the United States, and receive in commutation therefor 50 cents per acre.

The records of this Office show that 748 persons became entitled under the cultivation classes to an aggregate of 148,960 acres.

Of these persons 288 relinquished the land to which they were entitled, amounting to 55,680 acres; 45 of these who thus relinquished, and who were entitled to 6,400 acres, do not appear to have received their respective shares of the commutation money. Four hundred and sixty persons, entitled to 93,280 acres, did not relinquish their lands.

Locations have been made for 362 of these reserves. For the remaining 98, who were entitled to an aggregate of 15,520 acres, no locations appear to have been made.

Of those cultivation claims, therefore, which have been allowed, the whole number remaining unsatisfied is 143, embracing an aggregate of 21,920 acres.

Twenty-one thousand four hundred and sixty acres of valuable land were selected for the orphans of the Choctaw Nation, under the 19th article, a considerable portion of which has been sold and the proceeds paid over to them or their legal representatives. The residue is in process of being sold for their benefit.

Query 19. The estimated average value per family of the improvements made by the Choctaws on the lands which they obtained or were entitled to as reservations under the treaty?

Answer. This Office is in possession of no information upon the subject.

Query 20. How much of the amount stipulated by the 15th article of the treaty for the pay of a principal chief, has been appropriated and paid for that purpose?

Answer. No part of it. It is due to the Office, however, to guard against any imputation of negligence in this matter, to state that no appropriation was ever asked for to fulfill this stipulation, because it was understood that the Choctaws had not thought proper to elect "an additional principal chief."

Query 21. Whether any, and, if so, how many, of the Choctaws who have emigrated from east of the Mississippi to the Choctaw country west, since the year 1831, at their own expense, have failed to receive an allowance for transportation or for the year's subsistence promised by the 16th article of the treaty, and what has been the usual commutation allowance in such cases?

Answer. This Office has no certain information as to the number of Choctaws who emigrated themselves subsequent to the year 1831. From statements submitted by different agents, however, there appear to have been 960. The Choctaw delegation have filed rolls in this Office prepared by commissioners appointed by the authorities of the nation to inquire into and ascertain such cases, which embrace 893 persons as having so emigrated.

There has been no fixed or uniform amount of allowance for commutation for removal and subsistence in such cases. In those of the Cherokees and Creeks, which are most nearly parallel to that of the Choctaws, the former were allowed by the treaty of 1835-'36, the sum of \$53.33 per capita, and the Creeks, by decision or regulation adopted in regard to them by the Department, \$55.

Query 22. The number and extent of unsatisfied claims for cattle surrendered by the Choctaws under the 16th article of the treaty?

Answer. According to the records of this Office there appear to have been 1,518 head of the different kinds of neat-cattle appraised by agents appointed for the purpose, at the aggregate value of \$3,865.28. Some of these appear to have been paid for in money and the others by other cattle delivered to their owners after their emigration to their country west of the Mississippi. There is no official information on file as to the number not so appraised and paid for.

The Choctaw delegation have presented and filed rolls prepared by commissioners appointed by the authority of the nation to ascertain and investigate such cases, according to which it is claimed that, on emigrating, the Choctaws were compelled to leave behind and entirely lose the following stock, which was never appraised or paid for, viz: 2,796 horses, valued at \$95,974; 4,899 neat-cattle, \$30,835; 10,981 hogs, \$33,697.50—\$64,532.50.

In the accompanying copy of a letter from the delegation marked C, they explain why and how these rolls are prepared.

Query 23. Whether all the stipulations of the 20th article of the treaty have been fulfilled, particularly in regard to rifles; and, if not, to what extent, stating in case of a deficiency in the supply of rifles, the value thereof.

Answer. This Office is not aware that any of the stipulations in the 20th article of the treaty remain unfulfilled unless it be that in regard to rifles, according to which each warrior who emigrated was to be furnished with a rifle, molds, wipers, and ammunition. The 15,000 who emigrated prior to the close of 1833, were so furnished in the proportion of one to every five Indians. The 6,148 since removed by the Government have not been supplied with any of said articles, for the reason that they were regarded as having elected to remain and become citizens of the States; that therefore the Government, having made provisions for their land-claims under the 14th article of the treaty, was under no obligation to furnish them with either transportation, subsistence, or rifles, the expenditures for their removal being considered as gratuitous on the part of the United States.

Query 24. When the gratuity or annuity, during the pleasure of the President, of \$2,000 to the Choctaws, under a law of 1801, was stopped, and by what authority, whether by direction of the President or Secretary of War, and whether the accounting officers in any adjustment of certain claims of the Choctaws for arrearages made in 1855 reported anything as remaining due and unpaid to the Choctaws under that head; and, if so, how much and for what year?

Answer. The amount above referred to was stopped in 1839, by being omitted to be included in the estimates from this Office. It does not appear from the files or records of the Office that there was any order or direction from the President or Secretary of War for its discontinuance, the act of the Office in the case being sufficient and tantamount to that of the President. In a report of the Second Auditor of the Treasury, dated February 1, 1855, embracing the results of an examination or adjustment made by him of certain claims of the Choctaws, for arrearages between 1816 and 1853, he included the above amount as remaining due and unpaid to them from 1840 to 1852, inclusive, amounting to \$28,000, but this Office in acting upon his report rejected the item.

Query 25. Same information in regard to the annuity of \$400 paid to the Choctaws under an agreement between the Choctaw chiefs and the Secretary of War in 1804.

Answer. This amount was discontinued in 1835, in the same manner as the gratuity or annuity of \$2,000, and without any order or direction of the President or Secretary of War, so far as shown by the records of this Office. In said report of the Second Auditor, he included this sum remaining due and unpaid to the Choctaws for the 19 years from 1835 to 1852, inclusive, amounting to \$7,600.

Query 26. When the \$500,000 stipulated to the Choctaws by the 3d article of the convention of January, 1837, between them and the Chickasaws, was invested for them, in what stocks, their market-value at the time, whether the whole of said principal sum still remains invested, and whether anything has been lost to the Choctaws by said principal sum not having originally been invested by the purchase of the stocks at their market-value at the time, or by any changes since made in the original investment; and, if so, how much principal and interest?

Answer. Said amount was invested for the Choctaws by the transfer to them, on the 11th of February, 1841, of five hundred bonds of the State of Alabama, held for the Chickasaws, for \$1,000 each, bearing an interest of 5 per cent. per annum, payable in New Orleans, and with interest due thereon from the 1st December, 1840.

This Office has no information as to their market-value at the time of their transfer to the Choctaws, but in a report from the Commissioner of Indian Affairs of October 28, 1840, in relation to making the investment in the above mode, "the Chickasaws have not the money, but they have the stocks, the transfer of which will be a fulfillment of their engagement with the Choctaws. If this construction is not sustained, a sale of the Chickasaw stocks, according to a strict construction of the treaty provision, which looks to nothing less in words, the effect will be very serious on the Chickasaws, (a loss and benefit neither contemplated,) for, to raise \$500,000 in cash by a sale of State stocks belonging to the Chickasaws, would require now not much less probably than \$750,000 of those stocks, which, or others, would be repurchased at a corresponding reduction."

A change was made in the investment in the month of June, 1851, the five hundred Alabama 5 per cent. bonds having been disposed of, and \$450,000 Virginia 6 per cent. bonds, purchased with the proceeds, which arrangement gives to the Choctaws \$2,000 more interest annually.

It is proper to state that the said Alabama bonds, when purchased for the Chickasaws, cost only \$495,000, and that the Choctaws were, in the month of March, 1850, paid in cash the difference between that amount and their par value, viz, \$5,000.

Very respectfully, your most obedient servant,

CHARLES E. MIX,  
*Acting Commissioner.*

HON. JACOB THOMPSON,  
*Secretary of Interior.*

DEPARTMENT OF THE INTERIOR,  
OFFICE INDIAN AFFAIRS,  
March 22, 1860.

SIR: The following recited preamb'e and resolutions adopted by the Senate of the United States on the 9th of March, 1859—

"Whereas the eleventh article of the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians provides that the following questions be submitted for decision, to the Senate of the United States: 'First, whether the Choctaws are entitled to, or shall be allowed the proceeds of the sale of the lands ceded by them to the United States by the treaty of September 27th, 1830, deducting therefrom the costs of their survey and sale, and all just and proper expenditures and payments under the provisions thereof; and, if so, what price per acre shall be allowed to the Choctaws for the lands remaining unsold, in order that a final settlement with them may be promptly effected; or, second, whether the Choctaws shall be allowed a gross sum in further and full satisfaction of all their claims, national and individual, against the United States; and, if so, how much:



"Resolved, That the Choctaws be allowed the proceeds of the sale of such lands as have been sold by the United States on the first day of January last, (1859,) deducting therefrom the costs of their survey and sale, and all proper expenditures and payments under said treaty; excluding the reservations allowed and secured and estimating the scrip issued in lieu of reservations at the rate of one dollar and twenty-five cents per acre; and further that they be also allowed twelve and a half cents per acre for the residue of said lands.

"Resolved, That the Secretary of the Interior cause an account to be stated with the Choctaws showing what amount is due them according to the above-prescribed principles of settlement, and report the same to Congress"—

Having been referred by you to this Office on the 19th day of the same month (March, 1859,) measures were at once adopted to collect the information necessary to state the required account with all possible exactitude.

The General Land-Office was called upon for the quantity of lands embraced by the Choctaw cession of 1830, the cost of their survey and sale, the quantity thereof sold up to the 1st day of January, 1859, and the amount of money received therefor, together with the quantity embraced in the "reservations allowed and secured."

The treaty of 1855 uses the words "lands remaining unsold," while the resolution says "residues." If by the expression first quoted is meant "lands undisposed of," the amount would be reduced, inasmuch as 2,292,776 acres have been disposed of by Congress under the swamp-land act, and for railroad and school purposes. The payments and expenses under the different provisions of the treaty of 1830, it was assumed could be ascertained with most certainty from the original accounts and vouchers thereof, which being on file in the office of the Second Auditor of the Treasury, that officer was requested to furnish that portion of the information.

That in reference to "the scrip issued in lieu of reservation," "the amount to orphans for reservations," a portion of the payments for removal and subsistence have been collected from the records of this Office.

From the information thus carefully collected, the required account has been stated, and it is herewith transmitted.

Though made up on a somewhat different basis, it will be seen that the result of this account does not differ materially from that of the approximate statement contained in the elaborate report made to you from this Office, on the 15th May, 1858, in answer to a series of queries from the Committee on Indian Affairs of the Senate; said statement showing a balance of \$2,993,720.18, while that of the present account is \$2,981,247.30.

It is to be observed that, under the second article of the treaty of 1830, a patent was issued to the Choctaws for the country west of Arkansas, estimated to contain 15,000,000 acres. Subsequently the Chickasaws, with the consent of the United States, purchased a portion of the tract at \$530,000, which the United States paid out of the trust-fund, belonging to the Chickasaws, with the exception of \$30,000 paid in the manner directed by the third article of the articles of convention of agreement between the Choctaws and Chickasaws, concluded the 17th January, 1837. Under the treaty of 1855, the Choctaws leased a portion of their country for which the United States paid the sum of \$600,000. If these sums are to be regarded as payments under the treaty of 1830, the amount due the Choctaws will be \$1,851,247.30.

I submit with the account for the information of yourself and Congress, copies of the reports of the Commissioner of the General Land-Office and Second Auditor, marked A and I, and of the supplementary and additional statements prepared in this Office, marked B, C, E, F, G, H, in triplicate, which exhibit the data from which the account has been made up and stated; also in triplicate, abstract from statement made by the Second Auditor under resolution of the Senate of the 10th March, 1853, of payments for Choctaws' accounts under same treaty, marked D.

The preamble and resolutions of the Senate referred to above are herewith returned.

Very respectfully, your obedient servant,

A. B. GREENWOOD,  
Commissioner.

Hon. J. THOMPSON,  
Secretary of the Interior.

*To the Senate and House of Representatives of the United States in Congress assembled :*

The memorial of the general council of the Choctaw Nation assembled, respectfully sheweth :

That an award was made in their favor under the 11th article of the treaty of 1855, by the Senate of the United States, on the 9th March, 1859, of the net proceeds of their lands ceded by the treaty of 1830.



That the amount due the Choctaw Nation under said award was officially reported, on the 8th May, 1860, to be \$2,981,247.30, which amount, less \$250,000, paid in 1861, has been due the Choctaw Nation from the United States since the 9th March, 1859.

That, in consequence of said award, the Choctaw Nation became liable and bound, by the 12th article of the treaty of 1855, to pay the claims of its individual citizens upon the United States.

That the aggregate of said claims was ascertained and reported to the United States Senate, in the year 1857, by the delegates authorized to represent the Nation, to be \$3,671,292.50, being \$690,045.90 more than the amount of the award.

That, since the year 1857, the amount of said claims has largely increased, swelling the aggregate to nearly five and a half millions of dollars.

That a substantially correct account of the nature and character of the various claims embraced in this aggregate is contained in the letter of P. P. Pitchlynn, Choctaw delegate, to the Secretary of the Treasury, dated July 10, 1874, a copy of which is subjoined.

That the adjudication of said claims, and the obligation to pay them, was imposed, by the treaty of 1855, exclusively upon the Choctaw Nation.

That the settlement with and collection from the United States of the amount of said claims, was intrusted more than twenty years ago to the delegation now represented by P. P. Pitchlynn and Peter Folsom, whose powers have been repeatedly reaffirmed and never revoked.

That payment of the amount due under said award has been repeatedly applied for and urged by the Choctaw Nation, through its authorized delegates above referred to.

That the general council beg leave respectfully to add their own urgent solicitations to those above referred to of the authorized delegates of the nation, to the end that the individual claimants may receive the amounts which have been so long due them.

(Signed by order of the senate.)

J. B. MOORE,  
*President Senate.*

Attest: THOMPSON MCKINNEY,  
*Recording Secretary of the Senate, October 29, 1874.*

(Signed by order of the house.)

W. W. HAMPTON,  
*Speaker.*

Attest: WM. P. MCCLURE,  
*Recording Clerk of the House.*

I certify that the within and foregoing is a true copy of the original memorial as signed by order of the senate and of the house of representatives of the Choctaw general council.

[SEAL.]

JNO. P. TURNBULL,  
*Nat. Secretary Choctaw Nation.*

#### APPENDIX.

WASHINGTON, D. C., July 10, 1874.

SIR: The "liabilities of the Choctaw tribe of Indians to individuals" to which your attention is called by the 3d section of the act of June 23, 1874, making appropriations

for sundry civil expenses of the Government, having been for the last twenty years the subject of my official attention as a delegate representing the Choctaws, first in the effort to recover from the United States the amount due such individuals, and subsequently, after the liability to pay them had been transferred by the 12th article of the treaty of 1855, to the Choctaw Nation, in the effort to obtain from the United States the means of enabling said nation to discharge such liabilities, it has occurred to me that it would be proper to place at your disposal any information within my reach tending to facilitate the inquiry contemplated by Congress. The greater part of these liabilities grow out of the unfulfilled stipulations of the 14th article of the treaty of 1830.

A second class is founded on the 19th article of the same treaty.

A third class consists of claims for emigration and subsistence, and for personal property lost during the emigration of 1831, 1832, and 1833.

A fourth class would embrace the claims of Choctaws who emigrated prior to the treaty of 1830.

In round numbers the liabilities—

|                                     |               |
|-------------------------------------|---------------|
| Under the 1st class amount to ..... | \$4, 000, 000 |
| Under the 2d class amount to .....  | 450, 000      |
| Under the 3d class amount to .....  | 600, 000      |
| Under the 4th class amount to ..... | 356, 792      |
| Making an aggregate of .....        | 5, 406, 792   |

As the Choctaws do not claim and are not likely to realize in their settlement with the Government more than the above aggregate, it is certain that, after paying what may be due to individuals, nothing will in any event be left for a school-fund, unless it should so happen that the sum appropriated by Congress equals the above amount, and that the escheats arising from the death of individual claimants without heirs or legal representatives prove to be much larger than there is any present reason to anticipate. In fact our people have long since ceased to hope that the "general Choctaw fund" for education and other purposes, contemplated in the 13th article of the treaty of 1855, to which the sundry civil act refers, would be increased by any balance remaining under the 12th article "after satisfying the just liabilities of the tribe." That hope was effectually extinguished by the report of the Secretary of the Interior of May 8, 1860, showing that a balance of \$2,981,247.30 was all we could look for, while the individual liabilities we had laid before the Senate amounted to \$3,671,293.20, exceeding by \$690,045.90 the largest sum which the Commissioner of Indian Affairs was willing to admit might be due us. In fact a disposition has been manifested from time to time in various quarters to reduce us, by what we have regarded as unjust deductions, to an allowance of \$2,332,560.85, falling short by \$326,000 of the claims under the 14th article alone, as we presented them to the Senate in 1857; and less than 60 per cent. of these claims, as they now stand with accrued interest, to say nothing of others equally meritorious, which cannot be ignored by the council.

Full accounts of the 14th-article claims, of the evidence by which they were supported, and of what the claimants have heretofore received, may be found in the Department of the Interior. But as the official records do not show the whole case as we presented it to the Senate, and still less as we understand its present binding force upon the Choctaws, I propose to give you an outline of the claims as they will probably be submitted to our national authorities for adjudication.

The 14th article of the treaty of 1830, better known as the Treaty of Dancing Rabbit Creek, gave to each Choctaw head of a family desiring to remain in the States a section of land, and also a half section for each unmarried child over, and a quarter-section for each child under ten years of age at the date of the treaty. No other condition was required but the signification to the agent of the intention to remain within six months after the ratification of the treaty. If, however, the parties resided upon the land five years from such ratification, a grant in fee-simple was to issue for the specified quantity. Thus, the intention to remain, duly signified, secured the land. Five years' residence thereon secured in addition thereto a grant in fee-simple.

To make the facts which follow, and the claims on which they rest, more perfectly intelligible, it is necessary to premise that the treaty was made with and for two classes of Choctaws, those who *were* and those who *were not* willing to emigrate. This appears from the treaty itself, from the journal of the United States commissioners who made it, and from the testimony, on file in the Indian Office, of Greenwood Le Flore, the most prominent and influential of the negotiators among the Choctaws. He says he urged the treaty in the face of a strong opposition, which he determined to remove if possible by suggesting the insertion of the 14th article, to satisfy those who believed there was a desire to force them to go west. Accordingly, the 14th article begins by

saying that "Each Choctaw head of a family being desirous to remain and become a citizen of the States shall be permitted to do so." It will be seen that, sooner or later, the whole force of the Government was arrayed against this permission to remain.

As soon as any considerable number showed a desire to avail themselves of it by "signifying" the "intention to the agent within six months from the ratification of the treaty," they encountered the most determined opposition from that officer, and from all others in the Government service, but most of all from the people of Mississippi, who wanted their lands.

The records of the Indian Office show that 1,585 families claimed the benefit of the 14th article. Of these 1,585 only *sixty-nine* (69) were reported by the agent as having signified their intention to remain, though many hundreds established the fact of their applying to him in person. He himself officially advised the War Department that he had on one occasion "put off" 200 such applications. Ultimately 74 others, making 143 in all, less than *one-tenth* of the number of applicants, secured the land to which they were entitled under the treaty; 1,442 lost their homes and improvements, of which number 1,150, after struggling fifteen years against all manner of obstacles, succeeded in obtaining partial indemnity in the shape of land-scrip for half of their reservation and money for the other half. The remaining 292 families have never received any compensation for their losses. Those who represent the 1,150 families claim that \$1.25 per acre, half in scrip and half in money, delivered from time to time between 1844 and 1852, was not an equivalent for the land-grants to which they were entitled in 1836, and ask to be indemnified for the losses they sustained in being deprived of their homes and improvements, most of them before the year 1836.

In behalf of the 292 families, a claim is made for the amount paid into the Treasury for their lands, with damages for their losses in the shape of interest from February, 1836, when their titles would have matured if the treaty had been complied with.

The claims of the 1,150 families as laid before the Senate in 1857, amounted to \$1,848,194.70; calculated up to March 3, 1875, they will amount to \$2,323,910. How this last aggregate is arrived at will be seen by reference to the subjoined statements, the first in the tabular form, marked A, being the copy of an official report from the Commissioner of Indian Affairs, who can doubtless furnish the original.

These 1,150 families, embracing 3,833 claimants, after a rigid scrutiny by several boards of commissioners in Mississippi, subsequently revised by successive Secretaries of War and Commissioners of Indian Affairs, with intervening investigations by committees of both Houses of Congress, extending altogether over a period of ten years, established the fact that they were entitled to land under the treaty; that the particular tracts to which they were entitled, and on which they resided, had been sold by the United States, "so that," in the language of the act of August 23, 1842, "it is now impossible to give said Indians" such land. (5 Statutes at Large, p. 515.) In place, therefore, of the land which it was "impossible to give them," they received for one-half the quantity to which they were entitled, land-scrip or certificates, authorizing them to enter an equal quantity elsewhere; but before the claimant could get this scrip, he was required to emigrate to the Indian country west, where it could not be used.

The act authorizing the issue of the scrip provided that the other half of their land should be paid for in certificates of the same kind, but these latter certificates were subsequently funded by Congress at \$1.25 per acre, (5 Statutes at Large, p. 577,) carrying an interest of 5 per cent., which interest was paid to successive parties of claimants after their emigration till 1852, when an act was passed stopping the interest, and directing the payment of the principal to the parties entitled. Practically 1,150 families were deprived of their homes, and, instead of the grants in fee-simple which the treaty provides, got nothing until 1844, when ninety-five of them received scrip for one-half of the land to which they were entitled, and eight years afterward \$1.25 an acre in money for the other half. Other families subsequently in like manner received scrip and money, at intervals varying from ten to fifteen years in the one case, and from sixteen to twenty years in the other, from the period when their rights matured. These differences in the time of delivering the scrip and paying the money, arose from the difference in the date of the emigration of the recipients, the Government, in the language of the day, using the scrip as a lever in moving the claimants from Mississippi to the Indian Territory west, notwithstanding the fact that the land-grants for which the scrip was issued were based upon the permission given in the 14th article to remain in the land of their birth. The United States agents were first instructed to deliver no part of the scrip until after the claimants had actually started on their journey west; subsequently they were directed to withhold it until their arrival in their new homes.

The foregoing facts will give you some idea of the foundation upon which the greater part of the claims under the 14th article are based. Perhaps a better illustration will be to specify an individual case, for example: Chisse Homa, or Red Post-Oak, was entitled to a section, or 640 acres of land, which was sold by the Government before

the year 1836 for \$800. By way of indemnity he received in 1846 a certificate authorizing him to enter other land. He had made arrangements to locate the scrip for his own use in the State of Mississippi, when he was told by the Government agent that neither he nor his people should have any of the certificates issued for their benefit until after they had crossed the Mississippi River on their journey west. Being forced into a position where it was useless to him, he sold it for \$25. This was in March, 1846. In 1852 he received from the Government \$400 in money for the other half of his land, interest on that amount at 5 per cent. having been paid him during the five preceding years.

Captain Post-Oak contends that the land on which he lived during the prescribed term of five years was his land by the terms of the treaty; that when the United States sold it for \$800, the purchase-money paid into the Treasury belonged to him; that as between himself and any private individual he would have been entitled to and could have recovered damages—

First. For the non-performance of the promise to make him a title.

Second. For the loss of his home and improvements in consequence of the wrongful sale of his land.

Third. For the use of his money received for the sale of his land.

That a very small measure of damages sustained under any one of these three heads would be an allowance of interest on the sale of his land from the day the money went into the Treasury up to the time he became fully indemnified for his losses, giving credit for amounts received from time to time, and stopping the interest on such amounts. Such an allowance of interest added to the difference between the par value at \$1.25 per acre of the scrip paid him, and the amount actually realized for the same would show the following results in stating an account, as between the United States and Captain Post-Oak, namely:

*United States to Captain Red Post-Oak, Dr.*

|  |          |
|--|----------|
| 1836, February 24, to proceeds of land sold.....   | \$800 00 |
| 1846, March, to 10 years' interest on same, namely, from February 24, 1836, five years after the ratification of the treaty, to the time when the scrip was paid him in March, 1846, at 5 per cent. per annum..... | 400 00   |
| 1875, March, to interest on \$375, being difference between par value of scrip paid him, \$400, and \$25, the amount realized for the same, for 29 years, at 5 per cent.....                                       | 543 75   |
|  | 1,743 75 |

Cr.

|   |          |
|---|----------|
| 1846, March, by proceeds of half section of scrip sold for..... | \$25 00  |
| By cash received for funded half of certificates or scrip.....  | 400 00   |
| Balance due Captain Post-Oak March, 1875.....                   | 1,318 75 |
|   | 1,743 75 |

Full proof of the details of "Chisse Homa's" or Captain Red Post-Oak's case can be found in the Indian Bureau and in the Second Auditor's Office, among 3,833 others of substantially the same character.

The most concise general view of the claims as an aggregate is contained in the subjoined statement A, taken from the report of the Secretary of the Interior to the House of Representatives of May 8, 1860, (House Ex. Doc. No. 52, 1st sess. 36th Cong.,) showing the amount of the scrip to which I have referred as allowed and issued to the Choctaws, and when and by whom it was delivered.

A.

Extract from report of the Commissioner of Indian Affairs to the Secretary of the Interior dated May 15, 1858, showing the amount of scrip allowed to Choctaw Indians in lieu of lands to which they were entitled under the provisions of the treaty of 1830.

The amount of scrip funded for the benefit of 14th-article claimants, by the act of March 3, 1845, was \$872,000.

Of the unfunded scrip 1,155 pieces were issued in favor of heads of families, being for one-half section each; 1,470 pieces of a quarter-section each for children over ten, and 1,219 pieces for eighty acres each for children under ten, at the date of the treaty, making an aggregate of 702,320 acres.

The following table shows when this scrip was issued and paid:

| Names of the agents and when they paid it.                                   | Heads of families. | Children. |           |
|--|--------------------|-----------|-----------|
|  |                    | Over 10.  | Under 10. |
| John J. McRae, from June, 1843, to March, 1845 .....                         | 95                 | 120       | 125       |
| Maj. William Armstrong, from February, 1845, to June, 1847 .....             | 406                | 535       | 460       |
| Col. S. M. Rutherford, from April, 1848, to June, 1849 .....                 | 229                | 276       | 169       |
| Col. John Drennen, from August, 1849, to May, 1851 .....                     | 143                | 171       | 127       |
| Col. John Drennen, by Wm. Wilson, clerk, from May, 1850, to July, 1851 ..... | 24                 | 31        | 25        |
| Col. J. H. Bowman, from August to November, 1851 .....                       | 253                | 335       | 309       |
| Whole amount paid out .....  | 1,150              | 1,468     | 1,215     |
| Eleven pieces of scrip returned by Colonel Bowman .....                      | 5                  | 2         | 4         |
| Whole amount allowed and issued .....  | 1,155              | 1,470     | 1,219     |

OFFICE INDIAN AFFAIRS, *March 22, 1860.*

As each head of a family received a half, each child over ten a quarter, and each child under ten an eighth of a section of land-scrip, the foregoing statement marked A shows that there were delivered in such scrip as follows:

## B.

| By whom delivered.                            | No. of acres. | No. of claimants. |
|---|---------------|-------------------|
| John J. McRae .....                           | 59,600        | 340               |
| Major Wm. Armstrong .....                     | 252,320       | 1,401             |
| Col. S. M. Rutherford .....                   | 130,960       | 674               |
| Col. John Drennen and Clerk Wilson .....      | 97,920        | 521               |
| Col. J. H. Bowman .....                       | 159,360       | 897               |
| Total number acres and number claimants ..... | 700,160       | 3,833             |

And also as the scrip delivered was in each instance for half the land to which the claimant was entitled, the other half being funded, that the aggregate reservations of the parties receiving the scrip is as follows:

## C.

| By whom delivered.                       | No. of acres. | Value at \$1.25 per acre. |
|--|---------------|---------------------------|
| John J. McRae .....                      | 119,200       | \$149,000                 |
| Major Wm. Armstrong .....                | 504,640       | 630,800                   |
| Col. S. M. Rutherford .....              | 261,920       | 327,400                   |
| Col. John Drennen and Clerk Wilson ..... | 195,840       | 244,800                   |
| Col. J. H. Bowman .....                  | 318,720       | 398,400                   |
| Total number acres and value .....       | 1,400,320     | 1,750,400                 |

When an additional allowance for the above claimants was first asked for, in 1854, on the ground of losses sustained on the scrip delivered them, it was ascertained that the whole amount they received in money for their 700,160 acres of scrip was \$118,400. I have not at hand the data from which it was obtained and verified, but have no doubt that if it varies from the truth it is in being over rather than under the mark; it is equal to an average of 16  $\frac{1}{10}$  cents per acre, or \$108  $\frac{1}{10}$  per section. To my certain knowledge large numbers of the claimants never received anything. The largest price paid was \$200 per section, while a great many received only \$50 per section.

Assuming for the purpose of illustration that the sum of \$118,400 was equally divided among all, I have prepared the following tabular statement, showing—

## 20 LIABILITIES OF CHOCTAW INDIANS TO INDIVIDUALS.

First. The aggregate amount paid into the Treasury for the land belonging to the different parties receiving scrip, as shown by the foregoing tables.

Second. The aggregate interest on such amounts paid into the Treasury from February, 1836, when the rights of the claimants under the treaty matured, until the scrip was delivered.

Third. The aggregate par value of the scrip delivered, at \$1.25 per acre.

Fourth. The average aggregate receipts in money by the claimants for such scrip—assuming simply for illustration that the sum of \$118,400 was divided equally among the different parties, which was not the fact.

Fifth. The loss sustained by such parties in the difference between the par value of the scrip delivered them and what they got for it.

Sixth. The interest on such loss from the time the scrip was paid, up to March, 1875.

Thus, the value of the lands belonging to the parties to whom the said scrip was paid, is as follows:

D.

| Scrip, by whom delivered. | Value of reservations. | Interest on value of reservation. |           | Par value of scrip. | Amount scrip sold for. | Loss on sale of scrip. | Interest on loss on sale of scrip. |           |
|---------------------------|------------------------|-----------------------------------|-----------|---------------------|------------------------|------------------------|------------------------------------|-----------|
|                           |                        | When.                             | Amount.   |                     |                        |                        | Years.                             | Amount.   |
| McRae.....                | \$149,000              | 1836 to 1844                      | \$59,600  | \$74,500            | \$10,000               | \$64,500               | 31                                 | \$99,975  |
| Armstrong .....           | 630,800                | 1836 to 1846                      | 315,400   | 315,400             | 42,400                 | 273,000                | 29                                 | 395,850   |
| Rutherford .....          | 327,400                | 1836 to 1848                      | 196,440   | 163,700             | 22,000                 | 141,700                | 27                                 | 191,295   |
| Drennen & Wilson .....    | 244,800                | 1836 to 1850                      | 171,360   | 122,400             | 17,000                 | 105,400                | 25                                 | 131,750   |
| Bowman .....              | 398,400                | 1836 to 1851                      | 298,800   | 199,200             | 27,000                 | 172,200                | 24                                 | 206,640   |
| Total .....               | 1,750,400              |                                   | 1,041,600 | 875,200             | 118,400                | 756,800                | .....                              | 1,025,510 |

By adding together the amounts due these claimants, as shown by statement D, as follows:

|   |             |
|---|-------------|
| First. Of interest from the year 1836, when the rights of the claimants to their reservations matured under the treaty, to the time when the scrip was paid them, or..... | \$1,041,600 |
| Second. The amount of loss they sustained on the scrip, or.....   | 756,800     |
| Third. The interest on such losses, from the time they were incurred, up to the earliest possible period of payment in March, 1875, or.....                               | 1,025,510   |

The aggregate amount due this class of claimants will be..... 2,823,910

That three-fourths of this large amount is for interest is not the fault of the claimants. What they wanted and begged for was the land on which they lived; the homes secured to them by the treaty.

When after fifteen years' delay scrip was substituted, they wanted to use that scrip in securing other homes, but the Government would not let them.

The funding act was passed without any solicitation on their part, or on the part of any one authorized to represent them.

It was a statutory declaration that the proceeds of their lands belonged to them, and that they were entitled to interest for the use of the money.

If they were entitled to interest at all, the right began to accrue the day the price of their land was paid into the Treasury, and not, as the Indian Office decided, the day when their scrip was delivered to them.

If they were entitled to interest at all, they were entitled to interest on the whole of the price of their land so long as it, or any part of it, was or may be withheld, and not exclusively on the "funded" half of it.

The "rejected claims" under the 14th article, are for 292 "heads;" 291 children over, and 277 children under, ten, at the date of the treaty; numbering in all 860 persons, claiming 324,320 acres of land sold by the Government for \$405,400.

The fact that these parties were Choctaws; that they lived in the ceded territory at the date of the treaty; that they remained there the specified time, some of them indeed never leaving it, has never been disputed. The objections to these claims were, it is believed, exclusively of a technical character, and a strong conviction has always been felt among our people that they were just and ought to be paid. So far back as 1850 the council sent a delegation to Washington to secure an allowance for them, and I have never heard any one in the nation express a doubt as to the obligation resting upon us to pay them in full, since the liability on that account was transferred by the treaty to the Choctaw people.



|  |            |
|--|------------|
| These claims amounted as above stated, for the amount for which the claimants' lands were sold, to ..... | \$405, 400 |
| Interest on this amount from 1836 to 1875, 29 years, at 5 per cent. ....                                 | 790, 530   |

Amount due this class of claimants ..... 1,195, 930

As originally presented to the United States the claims of the Choctaws, under the 19th article of the treaty of 1830, amounted to \$451,800.

The intention of the treaty was, to secure to 1,600 families pay for their improvements by allowing them to either sell, or to relinquish to the Government in exchange for money, reservations proportioned in extent to the size of their fields.

When these came to be measured, and the reservations dependent upon them were determined, it was found that instead of 1,600 families securing 458,800 acres, as the treaty contemplated, only 731 families were provided for, and were allotted 123,680 acres, being 334,720 acres less than the treaty had contemplated, and that of five classes of families having improvements all fell short of the number for which the treaty intended to provide, except the fifth class, or those having fields of the smallest size, which was found to number 1,763 families, more than five times the restricted number of that particular class as defined in the treaty, and 163 more than all the five classes for whom the treaty intended to provide.

The Choctaws complained of this injustice as soon as its practical working was perceived, but to no effect. The obvious fact, was, that they had been misled by their ignorance of the size of an acre.

The council was willing to press, and did press, upon the United States the injustice done to that class who had improvements, and who ought to have been permitted to fill out the missing numbers of the classes supposed to own larger improvements, but to no purpose. Whether the council would or would not be willing to recognize any obligations on the part of the nation to make good their loss to the disappointed applicants is a question which I am not prepared to answer.

Of one branch of the 19th-article claims, however, I can speak with certainty, and that is, of the 143 Choctaws who were duly registered, and whose rights were fully acknowledged to reservations amounting to 21,920 acres of land, but which reservations have never been secured to the parties entitled; their names are duly enrolled on the proper lists on file in the Indian Office, where full lists of the 1,032 families who failed to get any allowance for their improvements can also be seen.

The parties who claim an allowance for emigration and subsistence, and those who lost cattle, for which they were never indemnified, have applied to the Government for relief from time to time during the last thirty years, and when the treaty of 1855 was concluded other claims were presented for the loss of horses, hogs, and other property not specified in the treaty, but lost in consequence of, or rather during, and directly caused by the emigration, which to a certain extent was compulsory.

These claims were as follows:

|                                      |              |
|--------------------------------------|--------------|
| 960 self-emigrants at \$45 each..... | \$43, 200 00 |
| 4,899 head of cattle, valued at..... | 30, 835 00   |
| 2,796 head of horses, valued at..... | 95, 974 00   |
| 10,981 head of hogs, valued at.....  | 33, 697 50   |
| Total of this class of claims.....   | 203, 706 50  |

These claims were regularly presented in 1856, but have never been adjudicated, as it was never known how much would be obtained from the United States. The amount recommended by the Senate Committee on Indian Affairs of \$2,332,560.85, as in full for the "net proceeds" falling short by \$300,000 of the amount claimed in 1857, for the fourteenth-article claims alone, it was felt that whatever was taken for self-emigrants and lost property must be at the expense of those entitled under the fourteenth article, and it was deemed unadvisable to create, by premature adjudication, ill-feeling between the two classes of claimants; at the same time the justice of the demands of those who had lost property during the first emigration, and of those who had removed themselves at their own expense, was fully conceded and recognized by all classes. The parties presenting them have never asked for interest, but whenever there is anything like an adjudication the demand is sure to be made, and the popular sentiment of the nation will undoubtedly be against what would seem to be the invidious distinction of allowing interest to one set of claimants and refusing it to another equally meritorious. I have therefore added to the above sum of. \$203,706 50 this item: Forty years' interest, at 5 per cent..... 407, 413 00

Making a total of these claims, principal and interest..... 611, 119 50

It will be understood that this statement refers exclusively to claims sent to the delegation in 1857; there is reason to believe, in fact I know, that there are others of

the same kind, equally valid, which have not been presented, and which will considerably increase the aggregate.

One item remains to be considered—that embracing the claims of Choctaws who emigrated to the Indian Territory, West, before 1830.

These claims have never been made out or presented by the parties interested.

When the delegation of which I was a member first prepared their case to be submitted to the Senate, under the 11th and 12th articles of the treaty of 1855, it was deemed advisable to call the attention of the Senate to this subject, for the reason that serious disturbances had arisen among the Cherokees on account of the omission to make provision in their treaty, made at New Echota in 1835 for the Western or "Old Settler" Cherokees who had emigrated prior to that treaty. For that class, after a long and angry controversy, special allowance was made in the 4th article of the treaty of 1846, (9 Statutes at Large, pp. 872-3,) based upon a decision in their favor resting upon grounds which have their parallel in the case of the Choctaws who had gone West when the treaty of 1830 was concluded.

It is not for me to say what course in regard to these claims will be pursued, either by the council or the claimants themselves, but I have thought it proper, in order to a full understanding of the whole subject, to lay the matter before you as it was originally presented to the Senate. Based upon such data as we then had, the interest of the 2,000 Choctaws in our country West when the treaty of 1830 was made, was estimated at \$356,792.

You will perceive from these details that it is not easy to determine accurately the amount of "liabilities due from the Choctaw Nation to individuals," as the council must first decide how far it will recognize claims under the 19th article of the treaty of 1830, and what allowance, if any, shall be made to the representatives of those who emigrated before the date of that treaty. These points settled, the question will still remain to what extent the 14th-article claimants must give way, if there is not enough for all, to those who claim as self-emigrants and for lost property.

The machinery for adjudicating these various claims has been in existence for many years, but there has been a strong feeling against the determination of any one class of claims until it was first known how much there would be to pay the claim when decided.

To recapitulate:

Of the first class, the names of the 3,833 claimants, embracing 1,150 heads of families, 1,468 "children over ten," and 1,215 "children under ten," at the date of the treaty of 1830, can all be found on the files of the Indian Office.

The amount estimated to be due them is \$2,823,910, which aggregate is liable to variation in this, namely, in the amount which was paid to individual claimants for scrip sold, which may not be as much, though it will certainly not exceed the estimate presented in the foregoing tables.

What is not known, respecting these claims is the names of the present living representatives, or, in other words, of the parties entitled to draw the money; nor is it desirable, for many reasons, that it should be known until the money is ready to be paid.

Of this same class the names are also known of the 860 claimants included in the 292 families whose claims for reservations under the 14th article have heretofore been rejected. These names are all registered in the Indian Office. The amount that will be due them on the 4th of March next, calculated on the basis of allowances heretofore made to other 14th-article claimants, and extending the computation of interest back to February, 1836, when their right to a fee-simple title matured, will be \$1,195,930.

As to the aggregate liabilities of these two divisions of the first class of claims, there is no question or dispute among the Choctaws. They will amount to \$4,019,840. The only doubt will be as to the particular individuals entitled to represent deceased claimants.

The names of the various claimants of the second class, under the 19th article of the treaty of 1830, are also on file in the Indian Office. How much they ought to receive cannot be determined until the council settles the principle which shall govern the allowance, and decides what classes among them shall or shall not be considered. The aggregate cannot exceed \$451,800, unless the council should decide to allow interest.

The number and names of the parties who paid the expense of their own emigration and year's subsistence are all well known among the Choctaws, and ought to be on file in the Indian Office, as their claims have been frequently presented. They amount, as first presented, to \$43,200. The only question that can arise in their case will be as to the allowance of interest.

The lost-property claims are those which will probably be the hardest to decide correctly, owing to the difficulty of obtaining proof at this late day of quantities and values during the emigration of 1831, 1832, and 1833. Some of them were prepared and presented in 1857, but large numbers of the claimants have felt unwilling to take any steps until there was money in sight to pay their claims when established. They have felt discouraged by the utter failure of their repeated efforts, during the last forty years, to get their claims even considered, much less paid, and have long since

despaired of getting anything. Those heretofore presented amount without interest to \$160,506.50.

As already stated, the claims in behalf of those who emigrated before the year 1830 have never been prepared or presented, nor do I know that they ever will be; the estimated amount due them was inserted in the statement presented to the Senate, as a matter of precaution, because it was known that a valid claim existed whether it was presented or not.

I must be permitted, before closing, to say that although the amount reported to be due as the award of the Senate by the Secretary of the Interior is, we think, less than the actual net proceeds of the cession of 1830, and therefore less than we are entitled to, yet regarding it as the award of the Senate, and therefore binding upon us by the 12th article of the treaty of 1855, we have long since made up our minds to accept that sum as all we can claim by the terms of our bargain as expressed in the treaty of 1855, which made the decision of the Senate final.

In conclusion, I desire to express for myself and for the people I represent our entire willingness to communicate at any and all times any information within our reach which you may wish to obtain.

I have the honor to be, very respectfully, your obedient servant,

P. P. PITCHLYNN,  
*Choctaw Delegate.*

Hon. B. H. BRISTOW,  
*Secretary of the Treasury.*

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WASHINGTON, D. C.,  
November 27, 1874.

SIR: In a communication from the then Solicitor of the Treasury, transmitted to the Senate by your predecessor on the 6th of June, 1872, the suggestion appears that, by the 12th article of the treaty of 1855, no part of the award of the Senate under that treaty can be paid until after the individual claims referred to in that article have been adjudicated.

Though one of the delegates who negotiated the treaty of 1855, and engaged ever since with little intermission in trying to secure the payment of the award referred to, I never heard of that construction of the 12th article until I saw it in Mr. Banfield's letter.

As others may possibly take the same view, I will state the meaning of that article as the Choctaw delegates understood it when they signed the treaty.

We had presented claims on the Government, individual and national, for a large amount. We had also contended for the net proceeds of the lands ceded by the treaty of 1830, and had submitted a statement showing that our individual and national claims called for a larger sum than the "net proceeds" would probably give us.

After refusing to listen to our demands, the Government finally answered them in the 11th and 12th articles of the treaty of 1855.

The 11th article calls upon the Senate to say which we shall have, the net proceeds or a gross sum in payment of all our claims, individual and national.

The 12th article says that whatever the Senate may award, whether net proceeds or gross sum, the award must be in full payment of all claims, individual and national, and that individual claimants must thenceforward look to the Choctaw Nation; the United States would no longer be liable. The Choctaw Nation must become bound for all just claims of individuals; but not bound to pay those that were *not* just.

The question which *were* and which *were not* just, was for the Choctaw Nation, and not the United States, to determine.

The advice and direction of the then United States agent, General Cooper, in making settlements and payments after the sum necessary to

pay all liabilities had been turned over to the Choctaw Nation, was desired because he had been and was still engaged in paying the 14th-article claimants under circumstances which gave him better knowledge than we had of the Choctaws living east of the Mississippi River.

So far the main object of the 12th article, as we understood it, was to transfer the liability for individual claims from the United States to the Choctaw Nation, and to wipe out *all* our claims on the Government, individual and national.

After securing—

1st. The release of the United States ;

2d. The transfer of liability to the Choctaw Nation ;

3d. The limitation of that liability to just claims ; and

4th. The exclusive right of the Choctaw authorities to determine *what* claims were just, the 12th article proceeds to say that so much of the Senate award as the Choctaw authorities may determine to be necessary for the payment of their just liabilities shall be paid to them by the United States.

Nothing is said about the separate adjudication of each individual claim, nor is such adjudication made a condition-precedent to the payment of the award.

True, the authorities were to ascertain how much of whatever might be awarded was necessary for the payment of just liabilities, and, to do that, had to ascertain what liabilities *were* just.

But there was nothing in the treaty to prevent them from "adjudging" such liabilities by classes or groups, instead of in detail, if by so doing they could "ascertain" how much it would take to pay them.

It so happens that nearly all the claims were so grouped in classes that it was easier and quicker to determine the limits of the aggregate required than it was to make a separate calculation for each individual. This was true of three out of the four classes of claims indicated in my letter of July 11, 1874, and partly true of the fourth.

It is needless, however, to speak of more than one class, namely, the claims under the 14th article of the treaty of 1830, because that class alone exceeded, in 1859, the amount of the award then made.

The justice of that class had already been adjudged in the strongest manner by the highest Choctaw authority, the national council, which had sent two different delegations to Washington to secure what was due the claimants. The treaty of 1855 was the result of the efforts thus made. Every claim in the class referred to had been "adjudicated" long before 1855 under the special authority of Congress. The name and locality of every claimant and the amount claimed was and is matter of record. The Choctaws applied for copies of the record, not for the purpose of re-adjudication, but simply to enable the proper authorities to identify with greater certainty the claimants or their representatives in disputed cases. They never dreamed of going behind the decrees in favor of the 1,150 families to whom scrip was awarded, and they regarded the action in the cases of the 292 families whose claims were rejected as equally conclusive in establishing the fact that those families had remained in Mississippi and were therefore entitled to the benefits of the 14th article.

That certain lands belonging to the "scrip claimants" had been wrongfully sold, that the proceeds of those lands constituted a trust-fund in the Treasury belonging to them, were facts which had not only been established by specially-authorized commissioners, but had been affirmed by the United States in several successive acts of Congress appropriating interest on part of that trust-fund. The single point in this case was that only half of what was due them had been paid, and

that the alleged payment of the other half was substantially no payment, the claim for what was still due, with accruing interest, constituting the bulk of the Choctaw claims as presented to the Senate. What we asked for was that the short payment of principal and interest of the fourteenth-article trust-fund should be made good, and the Senate in making the award established the validity of the claim, which, indeed, was too obvious to admit of dispute.

Being a claim for unpaid balance of a trust-fund, with interest accruing till paid, manifestly the amount due could not be ascertained till the period of payment was first determined, and then it was the work of an accountant and not of a judicial tribunal.

The same reasoning applies to the rejected claims, which had also been adjudicated, the adjudication having established the fact that the families claiming had remained in the ceded territory, and were, therefore, as every Choctaw believes, entitled to the proceeds of their homes, which had been sold by the United States, the only real difference between the two classes being that one class had received something, while the other had received nothing. Interest, therefore, accrues in one case on the price of the land from the day it became due till it is paid in full to the owners; in the other, on the price up to the first payment, and then on unpaid balances, until the debt is discharged.

Proceeding on this principle of computation, it will be readily seen that the fourteenth-article claims, either as presented to the Senate in 1857, or as explained in my letter to you of July 11, a copy of which was recently transmitted to you as part of the memorial addressed by the general council to Congress, exceeded on the 9th of March, 1859, the award that day made. One of the exhibits contained in that letter shows an aggregate of \$2,823,910 due to 1,150 Choctaw families to whom scrip has been heretofore awarded in part satisfaction of fourteenth-article claims, which aggregate is made up in part of \$1,025,810 for interest on various sums, amounting together to \$756,800, for different periods, ranging from 24 up to 31 years, being brought down to March, 1875, when it was hoped that the claims would be paid.

If that interest be calculated up to March, 1859, when the award was made, instead of March, 1875, a reduction of sixteen years will be effected, which at 5 per cent. would be equal to 80 per centum on the principal sum of \$756,800 indicated in the exhibit.

|  |                  |
|--|------------------|
| From the aggregate of.....   | \$2, 823, 910 00 |
| Deduct 80 per cent., or sixteen years' interest on \$756,800, equal to.... | 605, 440 00      |

|   |                |
|---|----------------|
| Leaves for amount due 1,150 families in March, 1859 ..... | 2, 218, 470 00 |
|---|----------------|

In like manner afterward in the same letter the rejected claims are stated as amounting—

|   |               |
|---|---------------|
| For principal.....  | \$405, 400 00 |
| For 39 years' interest from 1836, when the claims matured, to 1875..... | 709, 530 00   |

|  |                |
|--|----------------|
| Making a total of.....   | 1, 195, 930 00 |
| Deduct interest from 1859 to 1875, 16 years, at 5 per cent ..... | 324, 320 00    |

|                                    |             |
|------------------------------------|-------------|
| Leaves amount due March, 1859..... | 871, 610 00 |
|------------------------------------|-------------|

Add these aggregates together, namely:

|                          |                |
|--------------------------|----------------|
| For 1,150 families ..... | 2, 218, 470 00 |
| For 292 families.....    | 871, 610 00    |

|  |                |
|--|----------------|
| Gives the sum of .....                         | 3, 090, 080 00 |
| due March, 1859, on fourteenth-article claims. |                |

|   |                |
|---|----------------|
| The award of the Senate in 1859 was ..... | 2, 981, 247 30 |
|---|----------------|

|   |             |
|---|-------------|
| Being this amount less than the fourteenth-article claims ..... | 108, 832 70 |
|---|-------------|



The above statement rests upon facts and figures set forth in my letter of July 11, which is made part of the memorial of the general council to Congress.

A clearer view, based upon facts contained in the same letter, though not therein summarized in exactly the same way, and all taken from official records, would show—

|  |                  |
|--|------------------|
| Eleven hundred and fifty families entitled to 1,400,160 acres of land, sold by the United States, "which it was therefore impossible," in the language of Congress, "to give them," the proceeds of which belonged to them and paid into the Treasury, were..... | \$1, 750, 200 00 |
| Interest on the trust-fund* thus created, from the 24th February, 1836, when the right to the land matured, to March, 1848, the assumed average period of the first payment, 12 years, at 5 per cent .....   | 1, 050, 120 00   |
| Amount due in March, 1848 .....  | 2, 800, 320 00   |

## CREDIT.

|  |                |
|--|----------------|
| By proceeds of land-scrip delivered at various times between June, 1843, and December, 1851, less than half of it before March, 1848, which is assumed as the date of delivery, for convenience of illustration..... | 118, 400 00    |
| Balance due in March, 1848 .....   | 2, 681, 920 00 |

## CREDIT.

|   |                |
|---|----------------|
| By amount appropriated by Congress in money, in the year 1852.....  | 872, 000 00    |
| Leaving a balance of .....  | 1, 809, 920 00 |
| To which add for interest on \$756,700, being the difference between \$875,100, the par value of the scrip delivered between June, 1843, and December, 1851, and the proceeds thereof, or \$118,400, from March, 1848, to March, 1859, 11 years, at 5 per cent..... | 416, 185 00    |
| Amount due in March, 1859 .....   | 2, 226, 105 00 |

In the foregoing statement a distinction is made in charging interest between the half paid in scrip and the half paid in money. Interest is charged on the *whole* of the proceeds of the reservations sold from the 24th of February, 1836, when the right to receive patents for them matured, up to March, 1848, the assumed average period of the delivery of the scrip paid for one-half of each reservation. The amount realized for the scrip is then deducted from its par value, and the interest is charged on the difference or discount from March, 1848, to March 10, 1859, the date of the Senate award, a period of 11 years.

But on the other half, paid the claimants in money, there is no charge for interest after March, 1848, although the half in money was not paid until after July, 1852. The charge is not made for the simple reason that the interest was paid regularly on that half, by order of Congress, as will be seen by reference to the act of March 3d, 1845, 5th Statutes at Large, page 777; the payment in each instance commencing as soon as the scrip half was delivered, and continuing until 1852, when the principal was appropriated.

See act June 27, 1846, 9th Statutes at Large, page 34.

See act March 1, 1847, 9th Statutes at Large, page 145.

See act September 30, 1850, 9th Statutes at Large, page 555.

See act July 21, 1852, 10th Statutes at Large, page 19.

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\* See report of Hon. Jno. C. Spencer, Secretary of War, Senaté Doc. 188, 27th Congress, 2d sess., page 3, in which the proceeds of the fourteenth-article-reservations are characterized as "trust-funds."



The delivery of the scrip was made by the Commissioner of Indian Affairs the initial point for interest to commence running under the act of March 3, 1845, instead of the date of the act itself, making a difference to the claimants, in that one item alone, of \$150,989.70, as may be seen by reference to the report on which the Senate award was based, (Senate Report Com., 2d session 35th Congress, page 14,) wherein the ground is taken that, in equity, interest would run from February 24, 1836.

Of those claimants who received neither scrip nor money for the lands of which they were deprived—

|   |               |
|---|---------------|
| Two hundred and ninety-two families became entitled, February 24, 1836, to patents for 324,320 acres, sold by the Government for..... | \$405, 400 00 |
| Interest from February 24, 1836, to March 10, 1859, 23 years, at 5 per cent .....   | 466, 210 00   |
| Amount due claimants to March 10, 1859.....   | 871, 610 00   |

For which amount the Choctaw Nation is undoubtedly liable, as it has persistently asserted the validity of these claims from the year 1850 down to the present month. That is, it has invariably insisted that by remaining in the ceded territory the prescribed term, the claimants acquired a right to their homes under the fourteenth article of the treaty of 1830. And if any future legislation should open the courts of the United States to Indians as citizens, with the right to sue and be sued, for that amount the Choctaw national funds will be liable, under the twelfth article of the treaty of 1855, in case the award of the Senate is ever paid.

These two items added together, namely :

|  |                  |
|--|------------------|
| For 1,150 "scrip" claimants .....                      | \$2, 226, 105 00 |
| For 292 "rejected" claimants.....                      | 871, 610 00      |
| Give the aggregate of .....                            | 3, 097, 715 00   |
| due fourteenth-article claimants in March, 1859.       |                  |
| The award of the Senate March 10, 1859, was.....       | 2, 981, 247 30   |
| Being less than the fourteenth-article claims by ..... | 116, 467 70      |

The fact that every one of the above claims of both classes has been adjudicated by the United States, and that the Choctaw Nation, upon which alone rests the ultimate responsibility and burden, has, with full knowledge of such adjudication, "adjudged" both classes of claims to be equitable and just, and has, in its recent memorial to Congress, made its requisition for the whole amount of the award of the Senate, as necessary for the payment of its just liabilities, will, I think, satisfy you that nothing should "be deducted from the sum due from the United States to the Choctaw tribe," for educational purposes, under the thirteenth article of the treaty of 1855, as the amount of said award is not enough to pay the individual claims "adjudged" by the authorities of the tribe to be equitable and just.

Although a large number of the claims in the three other classes specified in my letter of July 11 have been "adjudged" equally just by "the proper authorities," none of them are included in the foregoing exhibit, for the reason not only that it is unnecessary for the present purpose, the fourteenth article claims alone exceeding the award of the Senate, but also because they had not been in like manner specially adjudicated by the United States, and had not so prominently influenced

the general council in the steps which preceded and led to the treaty of 1855, and, moreover, because the other classes of claims do not stand upon the same footing with those under the fourteenth article in constituting a lien upon the Choctaw national funds, if those funds should ever become the subject of adjudication in the United States courts.

Very respectfully, your obedient servant,

T. T. PITCHLYNN,  
*Choctaw Delegate.*

Hon. BENJ. H. BRISTOW,  
*Secretary of the Treasury.*

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AN ACT defining the duties and powers of the commissioners, the jurisdiction of the court of claims, fixing their pay, and for other purposes.

SECTION 1. *Be it enacted by the general council of the Choctaw Nation:* That whereas the Senate of the United States has awarded to the Choctaws the net proceeds of the land ceded by them to the United States by the treaty of Dancing Rabbit Creek, September, A. D. 1830, deducting therefrom the proper expenditures for surveying, selling, &c. ;

SEC. 2. *Be it further enacted,* That whereas the Choctaws, by the twelfth article of the treaty of June 22, 1855, accepted the same in full satisfaction of national and individual claims, thereby becoming liable, and assuming the payment of individual claimants :

SEC. 3. *Be it further enacted,* That the three commissioners now appointed under sixth section of the constitution, and two others to be appointed by the governor, who, after being commissioned and qualified according to law, shall be, and the same are hereby, constituted a court of claims, who, before entering upon the duties of their office, shall take the oath of office prescribed in the constitution, which oath may be administered by the governor or judge of any court of record.

SEC. 4. *Be it further enacted,* That the court of claims shall have jurisdiction over all claims for self-emigration, all claims under the 14th and 19th articles of the treaty of September, 1830, and also claimants under the supplement, claims for lost property in emigrating to this nation during the years 1831, 1832, 1833, and for property scheduled to the General Government agents.

SEC. 5. *Be it further enacted,* That all claims against the nation shall be brought within eighteen months from and after the passage of this act, and not thereafter. Claimants shall have the right to appear before said court of claims in proper person or by attorney: *Provided,* That none shall be attorneys except those legally qualified to practice before the courts of this nation, being citizens thereof.

SEC. 6. *Be it further enacted,* That said court of claims shall, as well as claimants, have the power to summon any person or persons as witnesses on the part of the nation, and in case the personal attendance of the summoned cannot be had, depositions may be taken by either party before any judge or other officer legally qualified to administer an oath, sufficient notice being given to the adverse party of the time and place of taking the same.

SEC. 7. *Be it further enacted,* That the court of claims shall choose from among themselves the presiding commissioner, who shall be styled the chief commissioner, and enter the same on the minutes of the court, and said chief commissioner shall have power to sign the minutes and certify any matter of fact of record in said court.

SEC. 8. *Be it further enacted*, That the court of claims shall have power to appoint a clerk, by and with the advice of the governor, to hold his office as long as business may require, but may be removed, for any good and sufficient cause, from office. Said clerk shall take the oath of office prescribed in the constitution before any judge of a court of record, and shall be allowed for his services three dollars per day, payable quarterly out of the national treasury, by certified certificate from under the hand and seal of the chief commissioner of the court.

SEC. 9. *Be it further enacted*, That for preventing errors in entering upon the judgment or orders of said court, the minutes of the proceedings of every day shall be drawn up by the clerk before the next day's sitting of the court, when the same shall be read in open court, and such corrections as may be necessary made, and then signed by the chief commissioner of the court and carefully preserved in a well-bound book, to be kept for the purpose, if necessary, of making a *pro rata* payment on adjudicated claims of judgment rendered; and the last day of each sitting of said court the proceedings of that day shall be drawn up, read, corrected, and signed on the same day as aforesaid.

SEC. 10. *Be it further enacted*, That the commissioners shall for their services receive three dollars for every day they shall be actually engaged in the discharge of their duties as commissioners, payable quarterly out of any funds in the national treasury not otherwise appropriated. A certificate under the hand and seal of the chief commissioner of the number of days, and the amount, shall be presented to the auditor, who shall issue his warrant on the national treasurer for the same.

*And be it further enacted*, That the witness or witnesses appearing in behalf of the nation in the court of claims will be allowed two cents per mile and fifty cents per day in attending the above said court, out of any money in the treasury not otherwise appropriated, on the order or certificate of the chief commissioner to the national auditor for the same.

SEC. 11. *Be it further enacted*, That in case any vacancy shall occur in the court of claims, either by death, resignation, or removal from office, the governor shall have power to fill such vacancy by appointment.

SEC. 12. *Be it further enacted*, That, in case of necessity, the court shall have power to appoint a bailiff, who shall execute all orders of said court, and for his services shall receive the same as that of constable for like services.

SEC. 13. *Be it further enacted*, That the said court shall hold its sessions at the following places, to wit: Skullyville, one month, commencing first Monday in January, 1860; John Riddle's, two weeks, commencing first Monday in February, 1860; Boggy Depot, commencing third Monday in February, to hold two weeks; Mayhew, three weeks commencing first Monday in March, 1860; John Caffrey's, three weeks, commencing fourth Monday in March, 1860; Doaksville, one month, commencing third Monday in April, 1860; Lukfatah, one month, commencing third Monday in May, 1860; Jessee McKinney's, two weeks, commencing third Monday in June, 1860.

*Be it further enacted*, That in case the said court of claims shall not complete the adjudication of claims enrolled within specified times, then additional terms shall be held by said court; times and places to be fixed by said court for final and entire adjudication.

Approved October 21, 1859.