

IN SENATE OF THE UNITED STATES.

MARCH 2, 1846.

Submitted, and ordered to be printed.

Mr. JARNAGIN made the following

REPORT :

*The Committee on Indian Affairs, to whom has been referred the memorial of William H. Thomas, praying payment for provisions furnished certain Cherokee Indians in the year 1838, have had the same under consideration, and present the following report :*

The memorialist says, that in consequence of the Cherokee Indians, or a part of them, being permitted to remain in, and become citizens of, the State of North Carolina, under the provisions of the 12th article of the Cherokee treaty of December, 1835, to prevent them from starvation it became necessary to furnish them with corn until they could raise it. That the agents of the government of the United States had sold their stock, corn, and every thing they had to subsist upon, before Col. Foster granted them permission to remain and become citizens. This permission was given, provided the War Department would consent thereto, which was some time delayed. During that delay the Indians had nothing to subsist upon. The memorialist says he supplied them to the amount of \$568 42, including interest, and he asks that this amount may be paid to him.

This claim was submitted to the Commissioner of Indian Affairs on the 19th October, 1843, and upon it he said, "there is not the least ground of claim against the United States." An appeal was taken to the Secretary of War, and on the 24th of October, 1843, he said, "This is not a claim upon the United States, but upon the funds under the Cherokee treaty of 1835, or appropriated to carry it into effect. It could not be paid out of those funds unless the Indians furnished intended to emigrate, and were assembled, or holding themselves ready to do so, or their being supplied was a measure which facilitated the Cherokee emigration, and that was done at the instance of an officer of the government. In this case, it appears that the Indians were not assembled or holding themselves ready for emigration ; on the contrary, they did not intend to emigrate, preferring to remain and become citizens of North Carolina, which they were permitted to do. Nor does it appear that their being furnished with subsistence had any thing to do with facilitating the Cherokee emigration, for that had been completed. Further, it does not appear that the corn was furnished at the instance of an officer of the government. This department has, therefore, no

legal authority to pay the claim. The only resort is to Congress." This committee think the remarks made by the Commissioner of Indian Affairs and by the Secretary of War perfectly just, and the decision made by them right, and that Congress has no authority, and ought not to grant the relief prayed. Therefore,

*Resolved*, That the prayer of the memorial ought not to be granted.