

**REPORT**  
OF  
**THE SECRETARY OF WAR,**

COMMUNICATING

(In compliance with a resolution of the Senate)

*The report and correspondence of the board of inquiry, to prosecute an examination into the causes and extent of the discontents and difficulties among the Cherokee Indians.*

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FEBRUARY 24, 1845.

Read, and ordered to be printed.

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WAR DEPARTMENT, February 22, 1845.

SIR: In answer to a resolution of the Senate of the United States of the 21st instant, requiring the Secretary of War "to transmit to the Senate the report of General Roger Jones, Colonel Mason, and P. M. Butler, Esq., who have recently, under his instructions, as a board of inquiry, prosecuted an examination into the causes and extent of the discontents and difficulties among the Cherokee Indians, with the instructions, correspondence, and evidence, connected therewith; and also a copy of any correspondence held by said board with the heirs or representatives of the Ridges and Boudinot, or any of them," I transmit, herewith, all the papers referred to in the resolution. Considering the limited time remaining of the session of Congress, I transmit the original papers, and respectfully request that they may be returned to this department when the Senate shall have no further occasion for them.

Very respectfully, your obedient servant,

WILLIAM WILKINS,

*Secretary of War.*

HON. W. P. MANGUM,  
*President of the Senate.*

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WAR DEPARTMENT, October 18, 1844.

Brigadier General R. Jones, *Adjutant General*, Lieutenant Colonel R. B. Mason, of the 1st regiment of dragoons, and P. M. Butler, Esq., Cherokee agent, are constituted a commission to proceed to the Cherokee nation, and investigate and report upon the matters contained in the instructions of this department of this day's date, and addressed to them.

WILLIAM WILKINS,

*Secretary of War.*

WAR DEPARTMENT, *October 18, 1844.*

GENTLEMEN: During the last session of Congress, three delegations of Cherokees were in this city—one representing the “Ross party,” with John Ross at its head; one claiming to represent the “old settlers,” with John Rogers at its head; and the other claiming to represent the “treaty party,” so called. It was alleged by the two latter delegations, that grievous oppressions are practised upon them by the Ross or dominant party, insomuch that they cannot enjoy their liberty, property, and lives, in safety; and that it was impossible for them to live in peace in the same community with their alleged oppressors. It was further represented by the “old settlers,” that the act of union, by virtue of which their Government was superseded, and they were subjected to the constitution and laws of the “Ross party,” never was authorized or sanctioned by their people, and that the western Cherokees, who signed it, not only did so without authority, but were induced to do it by promises and assurances which have never been realized.

On the other hand, John Ross and his delegation represented, that the “old settlers” and “treaty party” were enjoying, under the act of union and their freely adopted constitution, liberty, property, and life, in as much security as the rest of the Cherokees, and were treated with the same indulgence; that the great mass of the “old settlers” and “treaty party” were content with their condition; and that all the difficulties were originated and are kept up by a few restless individuals, without any real cause for complaint.

The copies of letters addressed by me, on the 8th July last, to John Ross and others, and on the 9th and 17th of the same month to John Rogers and others, will show you the views entertained by me of these Cherokee difficulties and disagreements; and that among the measures which, it was supposed, it might be necessary to adopt as the duty of the Government, and just to all parties, was the raising of a commission to inquire, on the spot, and in the Cherokee nation, into the conflicting allegations made by the respective parties into which that people is unfortunately divided.

I hoped that, on the return to their nation of the several delegations, to whom the above letters were addressed, all would have been disposed to sit down in harmony, and that the differences so long existing among the Cherokee people, and so long retarding their further advance in the civilization and refinement, in which they have already made such commendable progress, would have disappeared. If this change, so ardently desired, had happily taken place, the commission referred to would have been unnecessary.

A letter, however, received from Major William Armstrong, dated 14th ultimo, addressed to the Commissioner of Indian Affairs, and referred to me, and a communication to the Adjutant General, from General Gaines, dated 30th ultimo, with its respective enclosures, (of which several papers, marked from 1 to 10, I send copies,) have induced me to recur to the idea of an inquiry, in the nation, into the real state of the facts which are alleged on either hand, and contradicted on the other, by the opposing parties.

It is one of my purposes, and a main one, to know if any considerable portion of the Cherokee people are arrayed in hostile feeling and action against those who are in the rule of the nation—whether confined to a few or many—and the bitterness of the hostility to the dominant party,



and, again, to ascertain whether correspondent dispositions and conduct prevail in the majority, who administer the Government, towards the minority, consisting of the "treaty party" and "Western Cherokees;" and the lengths of oppression, resistance, and violence, to which the excitement of each against the other has severally led the parties, and may, in your opinion, from a view of the whole ground, still further lead them. Inquire whether, in fact, the discontent in the Cherokee country is of that extent and intensity in the great mass of the "old settlers" and "treaty party," that they cannot live peaceably under the same government. Whether any and what specific acts of violence or oppression, or of deprivation of the possession of property, have been exercised upon the chiefs or common Indians of the "old settlers" or "treaty party," since the arrival of the "Ross party" in the Cherokee country west, in 1838; and what means, if any, were in preparation by the Cherokee government, or any of the "Ross party," to prevent or break up by violence the council proposed to be holden by the "old settlers" and "treaty party," at the mouth of the Illinois, on the 16th ultimo.

These and all kindred inquiries will be within the scope of your authority.

My first object is to endeavor to reconcile the two implacable portions of the same people—to make them friends—and, to this end, to inform myself of all that is necessary to the soundest judgment of the course that will best execute our intentions. If, however, reconciliation should prove impracticable, it will remain for the Government, upon the truth being known from your report, to adopt such measures, as circumstances, on the fullest consideration of them, shall seem to require, and to give such redress for any real wrong or oppression as the United States may lawfully grant.

On arriving in their country, you will immediately desire both parties to abstain from any movement calculated in the most remote degree to interfere with the beneficent designs of the Government, and to wait the decision that shall be made on your report.

If either of the parties concerned shall request you to investigate and report upon any other matter of importance, and properly pertaining to the object of this inquiry, you will proceed to do so in the same manner as if specially instructed.

In matters where your own knowledge and observations will enable you to speak with confidence, it is not necessary that you should take testimony; but, in relation to all other points of inquiry, you will seek information from proper and accessible sources, taking care that no unnecessary delay shall be interposed from any quarter. Any two of your number are authorized to proceed with the investigation, although it is expected that you will all be present if practicable; and as the information is wanted at the commencement of the approaching session of Congress, or as soon thereafter as practicable, it is enjoined upon you to proceed forthwith upon this service.

The investigation may be held at such place or places as will most expedite its progress, and afford security to those who may be required or feel it necessary to attend.

Very respectfully, your obedient servant, &c.

WILLIAM WILKINS,

*Secretary of War.*

General R. JONES,

Lieutenant Colonel R. B. MASON, } *Commissioners, &c.*

P. M. BUTLER, Esq.,

FORT GIBSON, C. N., *January 17, 1845.*

SIR: I have the honor herewith to forward the report of the special commission appointed to inquire into the complaints and difficulties in the Cheekee country, which will be presented to you by Lieutenant Lay, of the army, (the secretary of the board,) the officer charged with this service.

Accompanying the report will be found the *journal* (of 53 pages) of the proceedings of the commission, marked No. 2, which is an exact record of all that occurred, or came under the notice of the commissioners, in the execution of the trust confided to them; also, the *minutes* of the investigation, (of 57 pages,) marked No. 1, in which the examinations made, touching the matters of inquiry, are recorded in detail, in a manner which it is hoped may be satisfactory to the department.

With each document will be found a separate appendix, with a single series of indices applied to both, marked from "A" to "V," inclusive. The paper "S" has been withdrawn from the file, to be separately laid before the department, with a letter.

I shall proceed to-day to Fort Smith; thence, without delay, to New Orleans; and, after remaining a few days, to inspect the military posts in its vicinity, pursue my journey to Washington.

I am happy to inform you that every thing is tranquil in the Cherokee nation, and I have no reason to doubt will continue so, in the hope and expectation of the people that something will quickly be done by the Government to settle the vexed subjects which have been so long agitated. One thing I deem to be important—that the parties complaining should at once be made to understand, in the most decisive manner, that *the idea of a separation* of the Cherokee people will not be countenanced or tolerated by the Government.

For any information touching the Cherokee affairs, or connected with our proceedings, I beg leave to refer you to Lieutenant Lay.

I have the honor to be, with great respect, your obedient servant,

R. JONES, *Adjutant General*  
and *U. S. Commissioner.*

HON. WILLIAM WILKINS,  
*Secretary of War.*

P. S. I beg leave respectfully to call the attention of the department to the paper marked "V," appendix, being the report of Captain Cady, who was specially instructed to examine the Cherokee laws, with a view to criticism. His views are fully concurred in.

R. J.

## REPORT

OF

*The United States Commissioners, appointed by the Secretary of War, October 18, 1844, to inquire into the complaints and difficulties of the Cherokees.*

FORT GIBSON, CHEROKEE NATION,  
January 17, 1845.

*The Hon. William Wilkins, Secretary of War :*

SIR : The undersigned, commissioners sent to the Cherokee nation to inquire, on the spot, into the difficulties and disagreements among that people, and into the conflicting allegations and complaints made by the respective parties into which they are divided, respectfully submit the following Report :

In obedience to your instructions of the 18th of October, the commission met at Fort Gibson the 15th of November, the earliest day practicable after the receipt of your orders. Preliminary and all proper measures were immediately taken, necessary for the prompt execution of the task assigned.

The 4th, 5th, 6th, and 7th December, 465 Cherokees were met in council at Tahluntuskey, twenty-five miles south of Fort Gibson, when the beneficent designs of the Government and the business of the special commission were announced and fully explained, as may be seen from the proceedings which accompany this report. Of the "old settlers" assembled at this place, there were 286; and 199 of the "treaty party," so called.

The commission adjourned the 7th, to meet at the old agency, seven miles east of Fort Gibson, on the 10th, where the session continued until Saturday the 14th, and then adjourned to meet at the fort.

At these several places and meetings the Indians had the fairest opportunity afforded them to come in and make known their complaints, if any they had, in any way they might choose. They chose to do this by deputation; and accordingly they appointed committees of twenty-four, to represent each of the complaining parties. The commissioners mingled freely with the people every where, conversed with many, inquired of individuals of every party, and on all occasions sought information from all accessible sources, in order, if possible, to fetch out the truth, and the real state of facts, alleged or contradicted by the opposing parties.

Twelve days were allowed the people to collect at the different places designated, after the time appointed for the meeting, (December 4,) for which ample notice had been published and spread through the nation. The whole number was 908, of which 546 are "old settlers," and 362 of the "treaty party." It was remarked, that many were "half breeds," while some could not be distinguished from white men; and it was subsequently ascertained that 155 were not Indians. Most of the individual complainants appear to be of this class. The collected mass do not indi-

cate the number of individuals present who had come to complain of "wrongs and oppressions" alleged to be practised upon the "Western Cherokees" by the dominant party. Of this class the proportion is small, compared to the mass, whose main purposes doubtless were to look after moneys claimed of the United States for the partition of their country, now in joint occupancy with the Eastern Cherokees, and the promised "per capita," under the "act of union." These considerations, it is believed, brought the people together more than any thing else, being matters which their headmen could make them understand very well, and to which the many who came to hear or to claim the right are ever prompt and ready to listen. The eagerness to record *names* shows how little the real purpose (by many) was at first understood. Some, who could not come, thought it so important to register their *names* as to request permission to do so by proxy.\*

On the other hand, it was stated that many were kept back through fear of the "police companies" of the nation. This possibly may be true in some degree; but, from similar statements of alarm and apprehended molestation, which proved to be more imaginary than real, the commissioners may doubt the fact. In this connexion, it should be mentioned that the ill-timed appearance of these police companies, on the second day of the council held at Tahluntuskey, met the decided disapprobation of the commission. The bad taste evinced by their obtrusive presence on such an occasion was rebuked, by directing them to leave the ground before sunset, and not again appear as an armed body, &c.

The complaint and denial of the "act of union" was the first in the order of examination, it having been represented to the Government "by the 'old settlers' that the act of union, by virtue of which their government was superseded, and they subjected to the constitution and laws of the 'Ross party,' never was *authorized or sanctioned* by their people; and that the Western Cherokees who signed it, not only did so *without authority*, but were *induced to do it by promises and assurances which have never been realized.*" (*Letter of instructions*, October 18, 1844.)

It appears that a general meeting was held by the Eastern and Western Cherokees, at Takatoka, (Double Springs,) in June, 1839, which broke up without being able to unite the two nations. The Eastern Cherokees, joined by a few of the "old settlers," or Western Cherokees, called another meeting at the Illinois camp ground, at which all parties were invited to attend, July 1, 1839. The chiefs, and, it is understood, most of the principal men of the "Western Cherokees," took no part in the meeting, but assembled at Fort Gibson. The Eastern and a portion of the Western Cherokees, who met at Camp Illinois in July, signed, by committees, an act of union, dated July 12. It also appears that on the 23d of August that portion of the "Western Cherokees" which had met the emigrant party deposed their chiefs, John Brown and Captain Rogers, for the reasons set forth in a series of resolutions, to which are affixed 261 names, said to be Western Cherokees. The same day they subscribed to the act of union of 1839; and the registry of names contains more than 1,500, among which are the signers

\* It was told to the "old settlers," if as many as 400 warriors could be enrolled, their country would be divided, and that they would get money from the United States for the part assigned to the Eastern Cherokees.



of the resolutions deposing their chiefs. It is evident that the procedure of the "Western Cherokees" at Camp Illinois, in July and August, 1839, was that of a minority of their "nation," which, in most cases of a compact to unite two separate communities, would be void.

It was seen that there still existed in the Cherokee country two conflicting self-styled governments, and a state of things altogether adverse to continued peace and harmony. The President, laudably anxious to restore quiet and a regular government, endeavored to effect this object.

Under instructions from the War Department, General Arbuckle called a meeting, in April, 1840, for the purpose of forming a complete union of the Cherokee people, which broke up without any definitive action. A second effort was made, that resulted in bringing the parties together at Fort Gibson, in June, 1840, and the signing by the deputations or committees of each, of the second act of union the 26th of that month.

With regard to that meeting and its proceedings, it appears—

1. That a committee of the "Western Cherokees," duly attended, deliberated and consulted together for many days.

2. That they were regarded by General Arbuckle and the deputation from the government of the "Eastern Cherokees," which met them, as duly authorized representatives of their people, their authority to act as such *not being questioned at the time.*

3. That their chief or headman, Captain *John Rogers*, though personally not well inclined to the union, lent the sanction of his presence all the time; that he nominated Andrew Vann, one of the headmen of his side, to be the second chief of the nation, under the terms of the compact, before it was signed; and afterwards, the same day, gave the toast, "*What has been done this day, may it never be undone,*" (in taking wine with Richard Taylor, one of the committee of "Eastern Cherokees.")

4. That the stipulations with regard to *office* were at once fully and satisfactorily carried out, and that many of those who now deny its validity, and several who signed it, took office and the required oath under the act, among whom are the son and brother of the ex-chief, (*Captain Rogers*,) at the time and now considered two of the headmen of the Western Cherokees.

5. That *Captain Rogers* and many others have received from the national treasury of the new government, thus consolidated, moneys for old claims or services rendered under the old government some more than ten years prior to the union.

6. That the proceedings at Fort Gibson were never referred back to the people of the "Western Cherokees" for confirmation, nor does there seem to have been any intention of such reference. What was said in this connexion appears to have been in reference to the "*constitution*" which was furnished by the "Eastern Cherokees," and subscribed to at the same time by the committee of "*Western Cherokees*;" and

7. That the now complaining parties acquiesced quietly in the new government, which went into and long continued in operation, peaceably and uninterruptedly.

Of the committee of *twelve* who signed the act of union of 1840, as deputies of the "Western Cherokees," but now deny authority (except one) for so doing, *seven* of the number were chosen by the same party, the 6th of December, at Tahluntuskey, with others, to represent their complaints before this commission! If the deputies by whose instrumentality

their government was merged, and the independence of their people as a separate community lost forever, acted in 1840 "*without authority*," or even exceeded the measure of delegated powers in a matter so weighty, can it be believed that *seven* of the number would be deputed now to represent them in any capacity? Such abiding confidence in agents, unauthorized or faithless, is not characteristic of the red men, and widely departs from custom, as the dark and gloomy deeds recorded in their history mournfully attest.

The commissioners believe that the authority for the proceedings on either side, at Fort Gibson, in June, 1840, was adequate; that the benefits in which the Western Cherokees were to participate in the way of "*per capita*," &c., were calculated upon; and that the expectancy of such pecuniary gain induced many, and reconciled others, to unite as one nation under one Government; while all, for the most part, were more anxious to see harmony restored among the Cherokee people than averse to the union—the measure generally believed at the time best calculated to insure it. And the commissioners are of opinion that the "act of union" was acquiesced in and virtually confirmed by the Cherokee people; but they desire it to be distinctly understood, that this opinion is not without some qualification, as will be seen in another part of the report, under the appropriate subdivision of subjects.

\* \* \* "Were induced to do it [sign the act] by *promises* and *assurances* which have never been realized."

The assurance that the "Western Cherokees" should share in a just proportion the offices of the government for the first constitutional term, according to the compact, was realized at once; but no stipulation respecting appointments in a representative government could have been made to go beyond the constitutional *term* of the elective offices. The first general election was in August, 1841, when the voice of the aggregate people alone could be heard in deciding who should or should not then fill the various offices. But so completely do party lines seem to have been obliterated at that time, that the majority of both legislative bodies, and of the offices generally, were from among those formerly known as *Western Cherokees*.

The promises in the way of money consideration must have been hypothetical, and may be illusory, as their realization entirely depends upon the construction which it is understood the Government may yet have to give to certain important provisions of the treaty of 1835-'36, and the various appropriations by Congress for their due execution.

In regard to the pecuniary expectancies based upon the avails of Eastern lands, in a division of the "balance" between the people, (the "*per capita*," 15th article,) the Western and Eastern Cherokees stand alike. But this is an important point, not to be overlooked whenever the *complaint-in-chief* of the "old settlers" may be finally considered by the United States.

*Second.* "It was alleged by the 'old settlers' and 'treaty party,' so called, that grievous oppressions are practised upon them by the "Ross or dominant party, in so much that they cannot enjoy "their liberty, property, and lives, in safety, and that it was "impossible for them to live in peace in the same community "with their alleged oppressors."

\* \* \* Inquire "whether any and what specific acts of violence or "oppression, or deprivation of the possession of property, have

"been exercised upon the chiefs or common Indians of the 'old settlers' or 'treaty party,' since the arrival of the 'Ross party' in the Cherokee country west, in 1838."—(*Letter of instructions.*)

1. Many specific complaints have been entered, of the deprivation of *liberty*, by arrests alleged to have been made without just cause. Some of the arrests, it appears, were made on the requisition of the United States authorities, and others, in general, for sufficient cause; some on suspicion, in times of great excitement and alarm, when vigorous measures were deemed requisite for the maintenance of peace and good order. But it does not appear that the arrests have been numerous, or wantonly made, though it is likely that the surveillance exercised by some of the police companies may, in some instances, have been carried too far. The arrests complained of occurred in the autumn of 1843, none having been made since.

2. "*Deprivation of the possession of property.*"—Most of the complaints under this head refer to the national reservation of the *salines*, always held to be public property, and so declared by the "old settlers" in their laws as far back as 1829, and again in 1833, when they were re-enacted and amplified, but which fact they did not reveal to the commission. The existing Cherokee Government, in 1841 and 1843, only confirmed and amended what their predecessors had established, as the sensible laws on the subject show. The authorities evince a commendable spirit of just regard for the rights of individuals, by appointing intelligent agents to value the improvements and outlay, with a view to reimburse those dispossessed.

The general fairness of the valuation will appear from the close coincidence of the estimates just made by Captain Woods and Lieutenant Kirkham, at the instance of the commission, with those made by the agent with regard to Captain Rogers's saline. The authorities have erred, it is thought, in their indiscriminate claim of *salines* as "national reservations," where there was no natural flow of water, and where, but for *individual* labor, money, skill, and enterprise, in searching and boring for and *obtaining* the salt water, the premises would have been valueless as a saline. Bluford West is a sufferer by such assumption of national right, deemed by the commissioners to be unjust, if not oppressive; and it is hoped that he will be reinstated in his valuable fountain and expensive improvements. If his case comes within the existing law, it surely ought to be amended.\* Except in like cases, if there be any, of salt water procured solely by private enterprise, complaints of the privation of property are neither just nor reasonable.

3. "*Cannot enjoy their lives in safety.*"—The complainants have not shown in any case that life has been taken or endangered by the Cherokee authorities since the "act of union," except in the administration of wholesome laws. It cannot be denied that human life in the Cherokee country is in danger—great danger. But the danger lies in the frequent and stealthy incursions of a desperate gang of banditti—"half-breeds"—notorious in the nation as wanton murderers, house burners, and horse steal-

\* It is due to the Cherokee authorities to state, that the valuing agent declares no mention was made to him that Mr. West's saline was not a natural one; and it is further stated, that salt had been manufactured at the same place before any wells were sunk.

ers, but whose fraternity is not of the dominant party; nor are the dangers from these outlaws most dreaded by the parties who send up their complaints of the insecurity of life. Since the commission has been in the nation, not less than three or four wanton Indian murders have been committed; two within the line of a conterminous State. The use of whiskey is one great cause of these frequent murders.

All the complaints admit that the forms of the law were duly observed. But in what community, even the most enlightened, do parties defeated or convicted, including sympathizing friends, feel satisfied with the judgment of the court or verdict of a jury?

The ample share in the offices of the nation by the Western Cherokees, especially in the judiciary, (for the bench has been filled chiefly from among them,) ought to lull suspicion of partial administration of the laws, and at least encourage them in the reasonable hope of equal security in life, liberty, and property.

In view of all these ascertained facts, the allegation "that they cannot live in peace in the same community with their alleged oppressors" is of little weight, and ought not, in the opinion of the commissioners, to be entertained.

The commissioners have discovered, that even while present on the spot, where they are able in most cases to elicit the truth, complaints have come up, either frivolous in the extreme, or not true. And it is believed that the "old settlers" and "treaty party" enjoy, under the "act of union" and the constitution of the Cherokee nation, liberty, property, and life, in as much security as the rest of the Cherokees.

*Third.* Inquire "what means, if any, were in preparation by the Cherokee Government, or any of the 'Ross party,' to prevent, or break up by violence, the council proposed to be holden by the 'old settlers' and 'treaty party,' at the mouth of the Illinois, the 16th of September, 1844."

The communication from General Arbuckle to the Adjutant General, dated September 14, 1844, and accompanying papers, on file in the War Office, show the views of the Cherokee authorities at the time, as seen in the following extract from the letter of the acting chief, George Lowry, to Captain Armstrong, the superintendent :

"CHEROKEE NATION, *September 9, 1844.*

"As regards your inquiry, 'whether or not any objection will be made by the Cherokee authorities to the meeting contemplated to be held by John Rogers and others, at the mouth of the Illinois river, on the 16th instant,' I have to reply that there will be.

"The considerations of duty and necessity which prompt to this course, in order to preserve unbroken the peace that so happily reigns throughout our country, and to maintain the constitution and laws of the Cherokee nation, will be, it is hoped, evident both to yourself and to your Government.

"If the intentions of the originators of the contemplated meeting were simply to petition the government of the Cherokee nation for the redress of any grievances which they may suppose they have sustained in their persons or property, or under which they are now laboring, no one could object. That right has never been denied any citizen of this nation. But it is well known that such is not the case, and that their intentions are to agitate measures, in themselves highly exciting, and which have for their



avowed ends a division of the Cherokee people, and the overthrow of their government."

The means in preparation, and which, it is believed, would have been adopted by the Cherokee government, if necessary, to prevent or break up the council proposed to be holden at the mouth of the Illinois, in September, were the police companies of the nation.

#### GENERAL OBSERVATIONS.

The commissioners do not believe that any "considerable portion of the Cherokee people are arrayed in hostile feeling and action against those who are in the rule of the nation."

The "bitterness of hostility to the dominant party," whatever it may be, it is believed, is confined only to a few. In the same relative proportion, probably in a less degree, like feelings and corresponding dispositions prevail in the majority toward the minority. But the masses, on either side, it is thought, are as well disposed to each other as in most communities divided into political parties, due allowance being made for the peculiar people.

In regard to the "lengths of oppression, resistance, and violence, to which the excitement of each against the other have severally led the parties, and *may in your [our] opinion, from a view of the whole ground, still further lead them,*" the undersigned are well satisfied, in their own minds, that this mainly depends upon the course which the Government may hereafter pursue towards the parts—the few, who, irrespective of the whole nation, come forward to represent the fraction of these parts at the seat of Government. Nothing is more calculated to keep alive the flame of discord in the Cherokee nation, than the belief that the restless or discontented, though comparatively few in number, will always find a ready audience at Washington, and the hope that complaints of oppression, and the like, may enlist the sympathies of the Government and the community. It is far from the intention or wish of the commissioners to intimate that complaints of alleged wrongs and grievances of any portion of the Indian families should not distinctly come up to the ear of the President. But on the mode and manner in which these complaints are made and entertained, may depend the harmony, if not the integrity, of the government of the Cherokee nation.

*Fourth.* "If either of the parties concerned shall request you to investigate and report upon any other matter of importance, and properly pertaining to the object of this inquiry, you will proceed to do so in the same manner as if specially instructed."

Under this discretionary authority, two complaints have been entertained and considered; and, although the last, doubtless they constitute the head and front of the array of grievances sent up to the department, and but for which, the lesser griefs, magnified as they have been, most probably would not have been known, if ever felt.

## THE "OLD SETTLERS."

*Claim indemnity of the United States for the deprivation of a part of their country, which had been ceded to them as a separate "nation."*

The commissioners fully agree with the complainants, that, under the faith and solemnity of treaties, fairly and understandingly entered into, in 1817, 1819, and 1828, and 1833, between the United States and the "Cherokee nation of Indians west of the Mississippi," they held a clear and indefeasible right and title to the lands described in the said treaties, and which they possessed and occupied at the time that the nation of Cherokees east was thrown into their country, by virtue of the treaty of December 29, 1835. The bringing together the *two* nations was the act of neither. The uniting these separate communities, for so many years parted by the Mississippi, was the consummation of a measure incidental, perhaps, to a fixed national policy, which the parties could not, by any possibility, have averted. But this inability of the weaker party, the Cherokees, to keep asunder, does not, it is believed, absolve the United States from their obligation to make to them now just indemnity. What has been done under the treaty of 1835 cannot be undone now. The Cherokee family cannot be divided, and remain within the jurisdiction of the United States. Their union ought to be preserved. But, while the compact entered into, known as the "act of union," is *valid* for all the practical purposes of the social action of an aggregate people, the united body, the undersigned solemnly believe that the "Western Cherokees" are, at this day, in law and equity, entitled to reasonable pecuniary indemnity for their loss of soil and right of territory, occasioned by the vast accession of the Cherokee people who last crossed the Mississippi from the east; and who, as a nation, overwhelmed their government. This view is deemed the more just, as it is apparent that the Government was instrumental in bringing about the second act of union in 1840—a measure which humanity and sound policy alike justify; and the existing union ought not therefore to be regarded as a perpetual *bar* to just remuneration from the national Treasury.

Viewing this subject more closely in all its bearings, it is apparent that the "Eastern Cherokees" *may* also have a contingent interest in any *indemnity* money which the United States may award the Western Cherokees for the deprivation of a portion of their territory. For, in whatever proportion the "Western Cherokees" shall realize pecuniary benefits from the avails of lands *east* of the Mississippi—that is, a division between all the people (the "*per capita*") of the "balance" of moneys, ("whatever the same may be,") under the treaty of 1835, *and* the stipulations of the act of union of 1840—then, in that case, and in the same proportion, would the *Eastern* Cherokees be entitled to participation in the indemnity fund which may be awarded to the *Western* Cherokees, but not otherwise.

## THE "TREATY PARTY."

*Complain of the non-receipt of the "per capita," &c.*

The commissioners agree with the complainants, that a large balance of money is due from the United States, under treaty stipulations, for *per capita* division among the Cherokee people.

The treaty of 1835 guaranties the payment of \$5,000,000 by the United States for the Cherokee lands, subject to the deduction of moneys to be expended on certain objects enumerated in the 15th article, among which are removal and subsistence.

Had legislation on the subject terminated here, the United States were bound so to administer the fund that the price of the land should not be exhausted by the expenses of removal.

The sums of twenty dollars, the commutation allowed in the 8th article for transportation, and of thirty-three and a third dollars for subsistence, would seem to have been the limits beyond which no further charge for these objects could properly be made upon the five millions. But the Government, in the exercise of a benevolent magnanimity; consulting not so much pecuniary considerations as the feelings and comfort of the unfortunate people, gave the removal of the mass of them into the hands of agents chosen from among themselves, instead of offering the contract for their transportation, like that of so many cattle, to the lowest bidder.

Surely, if these expenses proved greater than anticipated by the treaty, it is not just to make, from the fund voted as the price of the Cherokee lands, deductions far exceeding what were contemplated when that price was fixed. Still less is it just that that portion of the Cherokee people, the "treaty party, so called," who had commuted for their removal, should have their reasonable expectations of compensation for the homes they had surrendered defeated, by the exhaustion of their *consideration money* in the removal of the other portion.

Under the first treaty arrangement, then, the United States would seem to owe the Cherokees all the excess that has been paid for removal and subsistence out of the five millions, over the amount that would result from allowing, for each individual removed, the respective sums of *twenty and thirty-three and a third* dollars, stipulated in the treaty as commutation.

But there are yet to be considered certain supplementary articles to the treaty, and the subsequent legislation.

The second supplementary article, concluded March 1, 1836, is to this effect: that whereas it was supposed by the Cherokee people that the Senate, in fixing the sum of five millions as the value of the Cherokee lands, did not intend to include the amount which might be required for removal, the subject was to be referred to the Senate, that, if it did not intend the five millions to include the objects specified, such further provision might be made as might appear to be just.

The 3d supplementary article says: "It is therefore agreed that the sum of \$600,000 shall be, and the same is hereby, allowed to the Cherokee people, to *include* the expense of their removal;" and in the sequel concludes: "but it is expressly understood, that the subject of this article is merely referred hereby to the consideration of the Senate; and if they shall *approve* the same, then this supplement shall remain part of the treaty."

The Senate did approve and ratify these articles, and Congress made the "further provision" called for. The conclusion seems just, that the Government thereby ratified the above expressed understanding of their intentions, and debarred themselves from making any charge upon the five millions for the expenses of removal.

If this construction be correct, then are the United States bound to restore to the compensation fund, out of the whole sum paid for removal,

such portion as has been charged upon the general fund; and also to restore such moneys as may have been paid out of that fund for "objects of a contingent nature," not enumerated in the treaty.

Of course, what has been said in considering the complaints of the "treaty party" applies to the whole body of the emigrants.

The commissioners are of opinion that the non-receipt of this *per capita* is the germ of discontent, the great hinderance to the harmony and quiet of the complaining parties, and of the whole people.

#### THE UNITED PEOPLE OF THE CHEROKEE NATION.

As a final and certain means of restoring the harmony and promoting the improvement of the Cherokee people, the commissioners beg leave strongly and respectfully to recommend, that their authorities be heard in support of their claims on the United States, and that a new treaty be concluded, on the just and liberal basis set forth and promised in the letter of his excellency President Tyler, September 20, 1841. By such a measure, it is believed, not only will the good faith of the United States be triumphantly shown, but they will be more than repaid for this liberal policy in the beneficial results to the Cherokee nation, and its rapid progress to the position of an enlightened and well-ordered community.

So great and desirable a result could not fail to have a commanding influence and moral effect upon the numerous adjacent tribes, far beyond any measure which the commissioners can recommend. And this policy would be in perfect keeping with the early designs of the General Government, in its beneficent efforts to advance the red people from a savage to an enlightened race—from wandering hordes, to agricultural and civilized communities.

Upon the result of the experiment of the Cherokee people, in their praiseworthy efforts to live under a free and representative government of their own, and to become tillers of the soil, as recommended by all the sages of the Republic, depends the success of the great system of Indian amelioration so ardently wished for by every philanthropist.

Respectfully submitted.

ROGER JONES, <i>Adj. Gen. U. S. A.</i> ,	} <i>United States</i>
RICHARD B. MASON, <i>Lt. Col. 1st Drag.</i> ,	
PIERCE M. BUTLER, <i>U. S. Agent</i>	

*Commissioners.*

NOTE.—See "*minutes*" of the investigation, as a part of this report; see, also, the "*journal*" of the proceedings of the board.



## MINUTES

07

*The proceedings of the commission appointed by the Secretary of War, October 18, 1844, to investigate the complaints and difficulties in the Cherokee Nation.*

FORT GIBSON, CHEROKEE NATION, TUESDAY, DECEMBER 17, 1844.

Minutes of the proceedings of the board of commissioners, in their investigation of the complaints of the "*old settlers*," or "*Western Cherokees*," and "*treaty party*," of the Cherokee nation :

The committee, chosen at Tahluntuskey, by the "old settlers," to represent them in the matters of complaint to be examined into, this day submitted a statement in writing, marked L, (appendix,) being the exhibit, in their own way, of the alleged "wrongs and oppressions" practised upon them by the Cherokee authorities and dominant party. The statement was accompanied with a printed memorial, dated April 16, 1842, signed by John Rogers and others; and a "memorial," being Document 235, H. R., 1st session 28th Congress, April 13, 1844.

The written statement was read in presence of the parties, including the deputation sent by the Cherokee authorities, when the board again explained the nature and scope of the investigation with which they are charged, and declared their intention to confine the inquiry to subjects set forth in the instructions of the Secretary of War, and as announced to the Cherokees when assembled at Tahluntuskey, the 4th instant.\*

The subjects of inquiry having been considered, the "*Act of Union*" between the "Western" and "Eastern Cherokees" was the first in order, it having been represented to the Government "by the 'old settlers' [*i. e.*, "Western Cherokees"] that the 'act of union,' by virtue of "which their government was superseded, and they sub-  
"jected to the constitution and laws of the 'Ross party,' never  
"was authorized or sanctioned by their people; and that the  
"Western Cherokees who signed it, not only did so without au-  
"thority, but were induced to do it by promises and assurances  
"which have never been realized."

General Arbuckle, having been stationed many years in the Cherokee country, at the time that the "act of union" was entered into in 1840, and then, as now, the commanding officer on this frontier, being in attendance at the request of the board, answered the questions propounded to him, as follows:

*Question.* Were you a party in behalf of the Government to the "act

\* See the address to the Council at Tahluntuskey, (Journal, page 59.)

of union" between the "old settlers" and the Eastern Cherokees, or emigrant party, entered into and signed at Fort Gibson, the 26th of June, 1840?

*Answer.* At the time mentioned I was in command of the department of the army embracing the Cherokee country, and I was required by the Government to assemble together the contending parties in the nation, viz: the "old settlers" and their adherents, the great body of the "treaty party," and that portion of the nation commonly designated as the "Ross party," with the view of reconciling their differences, and uniting the whole nation under one government, on terms of justice to both parties, and securing to each a representation in the national council, according to numbers, and a fair proportion of the government offices for the first constitutional term.

*Question.* Were you present at a meeting that took place, April, 1840, at this place?

*Answer.* The parties referred to in the foregoing answer assembled at this place, at my request, April 20, 1840, and I was present at their meeting.

*Question.* Please to state, to the best of your recollection, what occurred at the preliminary meeting in April, affecting the national rights or social relations of the Cherokee people.

*Answer.* At this first meeting of the deputations of the two parties, they were made acquainted with the object of the Government in calling them together, viz: the formation of an union, with the view of securing peace and harmony to the nation; and its wishes respecting the conditions on which they should unite were made known to them. The Ross party dissented from the terms proposed by the Government; the opposite party agreed to them. The meeting broke up without any definitive arrangement being entered into.

*Question.* At whose instance were the "old settlers" and "Eastern Cherokees" assembled here (Fort Gibson) in 1840?

*Answer.* At the instance of the Government, communicated through me.

*Question.* Was the call made by you as an officer of the Government?

*Answer.* It was.

*Question.* In what manner were they called?

*Answer.* The request that the meeting might take place was communicated to the principal chiefs of the two parties. Mr. Joseph Vann was then assistant principal chief, exercising the functions of principal chief of the "Eastern Cherokees," and Captain John Rogers was the principal chief of the "old settlers."

*Question.* What were the principal objects in view?

*Answer.* In reply to this question, I beg leave to refer you to my answer to the first interrogatory.

*Question.* What were the existing evils in the Cherokee nation which this meeting was intended to remedy?

*Answer.* The existence of two governments, which were ever in danger of coming into collision, and a state of feeling very unfavorable to the continuance of peace between the different parties in the nation.

*Question.* Did the act of union, at the time, in your opinion, serve to cure the then existing evils in the nation which it was designed to effect?

*Answer.* In my opinion, the act of union served to restore quiet to the nation.

*Question.* Was it made in good faith by all parties; did you doubt, at

the time, that the "act of union" was not "authorized or sanctioned by the 'Western Cherokees,' and that those who signed it on their part, did so without authority?"

*Answer.* I supposed, at the time, that the union was entered into in good faith by *all* parties. Respecting the manner the deputations were appointed, I was advised that that of the "Eastern Cherokees" was regularly empowered to act by the council of that portion of the nation. In what manner that of the "old settlers" was appointed, I was not aware, but presumed it had been done by proper authority, as due notification had been given.

*Question.* How long did the Cherokee people live together in harmony under the act of union?

*Answer.* I remained in command of this department, after the union, a little more than twelve months, *during which period the nation appeared to enjoy perfect peace.*

*Question.* What inducements or assurances, if any, were held out to the "old settlers" to enter into the act of union?

*Answer.* I understood the inducements to be, the enjoyment, at once, of a just share in the government of the nation, and a participation in any "per capita" allowance of money due, or which might become due, from the United States, which, it was then supposed, would amount to not less than *seventy dollars* to each individual.

*Question.* Have those inducements or assurances been realized?

*Answer.* From my own knowledge I cannot speak; but, as regards the pecuniary inducement, I have understood that it has not been realized.

*Question.* If those inducements and assurances had not been held out to the "old settlers," would they, in your opinion, have entered into the act of union at the time the act was agreed to by the parties?

*Answer.* I think they would not.

*Question.* If the *per capita*, or head money, counted upon by the "old settlers," had been received by them, would they, in your opinion, have continued satisfied with the act of union? and would the harmony, which you say prevailed among the Cherokee people for more than a year after the act of union took place, in your opinion, have continued?

*Answer.* I state, as my opinion, that, had the *per capita* money been received by the "old settlers," *they would have been satisfied with the act of union, and peace and quiet, if not perfect harmony,* would have reigned in the nation; premising, of course, the government to be administered with moderation and equal justice to all.

*Question.* What were the considerations and expected benefits to be derived by the emigrant party, i. e. Eastern Cherokees?

*Answer.* I presumed the object of the Eastern Cherokees to be, in entering into the union, to add strength and importance to the nation, by uniting different bands, which had long been separate and distinct, in one body politic; secure tranquillity to the country, and settle any doubt that might have been entertained as to the right of the Eastern Cherokees to occupy the territory west jointly with the "old settlers."

*Question.* Besides the moral influences naturally exercised by you, as an officer in the confidence of the Government, and one long acquainted with the "old settlers," were there any persuasive means exercised on your part, to induce them to consent to this act of union?

*Answer.* When the deputations from the two parties had assembled in

council, I made them a brief address, *strongly urging that they should lay aside all animosities and personal feelings, and endeavor, by mutual concessions, to reconcile their differences, and enter into a bond of union*; that it was by such a course only they could expect any beneficial results from their deliberations.

*Question.* Did you give them plainly to understand that both the Government and yourself wished them to enter into the act of union, and that you hoped they would do it; but, if they did not, that it was probable the Government would require them to do so?

*Answer.* I informed both parties that it was my wish, *and that of the Government*, that they should settle their differences by *an union*, founded in equal justice to all; and I told the "old settlers," that if the other party made them a reasonable proposition, and it was not accepted, I did not believe the Government would give itself any further trouble in settling their dispute; I feel very certain I did not inform either party that the Government would use coercive measures to carry out its views in this respect.

*Question.* Was Captain John Rogers present at the meeting of the "old settlers," at Fort Gibson, in June, 1840, when the act of union was signed; and did he give it his consent, express or implied; and did he signify his assent in such manner, *after* the act was signed by the parties, as to induce you to believe that he was content with and would abide the arrangement entered into by the Eastern and Western Cherokees?

*Answer.* Captain John Rogers was at this post at the time referred to, but I do not think he was at the council when the act was signed. Soon after the arrival of the deputations at this post, I was led to infer, from remarks made to me by Captain Rogers, that he dissented from the contemplated plan of union, but that many of the principal men among the "old settlers," feeling that theirs was the weaker party in the nation, and must of necessity be overpowered by the other, were of the opinion that the only recourse left them was to accept any reasonable offer from the other party; after the act of union was signed, however, I was induced to believe Captain Rogers *was satisfied with the arrangement*, as it was hoped the measure would tend to restore quiet to the nation.

*Question.* By whom was the inducement of "per capita" money held out to the "old settlers" to enter into the act of union?

*Answer.* It was the agreement of the opposite party, that the "old settlers" should enjoy an equal share, the money being by treaty secured exclusively to the Eastern Cherokees.

*Question.* Are there any facts touching the act of union, within your knowledge, on which you have not been interrogated? If so, please state them.

*Answer.* What I regard as material has been already elicited in my answers to other questions. I will state, however, that, after the signing of the act, great sociality, good feeling, and satisfaction, seemed to prevail among the parties; they came down to my quarters, and were giving toasts on all sides, expressive of their approbation of the measure.

The committee of the "old settlers" were then asked if they had any questions to propound to General Arbuckle, when the following were put, *viz*:

*Question.* "Did you not say to the 'old settler' party, that the act of



union, so called, was only temporary, and would not be binding upon their people until confirmed by a convention of the 'old settlers?'"

*Answer.* I do not recollect to have said so. [General Arbuckle subsequently amended his answer by adding as follows:] I prevailed on the "old settlers" to accept the "*constitution*" of the "Eastern Cherokees," without admitting its legality until concurred in by them. I have never heard of their calling their people together to confirm their acts, *but they joined the Government.*

*Question.* "Did not several of the committee become dissatisfied with the propositions of the 'Ross party,' and go home without signing the so-called act of union?"

*Answer.* I understood that two went off dissatisfied with the propositions made, and did not sign the act.

*Question.* "Please to state what you wrote or said, that caused dissatisfaction among the 'old settlers' in council?"

*Answer.* I do not now recollect what I wrote or said, but I understood that some remark of mine had caused them to talk of breaking up. Hearing of this, I then went to the council, and made them an explanation, with which they seemed satisfied.

The deputation from the Cherokee government were then asked if they had any questions to submit, when the following were put to General Arbuckle, viz:

*Question.* "Was there not an act of union entered into, in 1839, between the 'emigrant Cherokees' and 'old settlers,' and a constitution and laws devised, adopted, and put into operation, for the government of the Cherokee nation?"

*Answer.* I understood there was an act of union entered into in the summer of 1839, by a small number of the "old settlers" with a convention of the Eastern Cherokees, and, as I was advised, without due authority on the part of the former. Subsequently to the act of union, a constitution was formed and adopted, and laws were made.

*Question.* "Were not one-third of the offices under the Cherokee government vacated by the Eastern and Western Cherokees, and filled by persons appointed from among the Western Cherokees, who were assembled in council at Fort Gibson, and from among their adherents?"

*Answer.* Such was the arrangement, and I heard no complaint of its being violated.

*Question.* "Did not William Rogers and Thomas L. Rogers, now present, denying its validity, subscribe to the act of union entered into at this place in 1840?"

*Answer.* Yes.

*Question.* "Do you know of any other inducements, of any kind whatever, having been held out by the deputation of the Cherokee government, to effect that act of union, other than those expressed in that instrument?"

*Answer.* No.

*Question.* "Did you not consider the deputation assembled at this place, on the part of the 'old settlers' and their adherents, fully empowered to effect the object for which they were called together?"

*Answer.* Yes, I supposed they were.

*Question.* "Was not that object effected? and did you not, on the 28th of June, write to the Secretary of War that you were 'much gratified to

notice that each party, before leaving Fort Gibson, expressed much satisfaction, in consequence of their nation being once more united, and with the measure you had taken to assist them to accomplish that desirable object?"

*Answer.* The object was effected; and I wrote a letter, about that date, to that effect, to the Secretary of War.

The examination of General Arbuckle was here closed for the time.

The board then entered upon the examination of *William Rogers*, *Thomas L. Rogers*, *Ezekiel Starr*, and of *Charles Reece*, *The Wind*, *Broken Canoe*, and *Wrinklesides*, signers to the act of union, and present as members of the committee of the "old settlers," the first three of whom answered in the English language, the rest by interpreter.

*Question*, (addressed to the above-named seven persons, respectively.) Are your signatures, here exhibited, to the original "act of union," dated at Fort Gibson, June 26, 1840, genuine? also those, at the same time and place, subscribed to the constitution of the Cherokee nation?

*Answers.* *William Rogers*, *Thomas L. Rogers*, and *Ezekiel Starr*, answered in the affirmative as to both papers. *Charles Reece*, *The Wind*, and *Broken Canoe*, answered in the affirmative as to the "act of union," but said they did not recollect whether they signed the constitution. *Wrinklesides* acknowledged signing the "act of union;" said he did not distinctly recollect signing the constitution, but thought it probable he did.

[*Remark.*—It is proper to remark, that the signatures of the first three individuals were in their own handwriting; the others, not being able to write, did not affix their signatures personally.]

*Question* by the board, at the request of the deputation from the Cherokee government, to *Charles Reece* and *The Wind*, respectively. "Do you remember having ever held an office under the existing constitution of the nation, and having ever taken an oath to support and defend the same?"

*Answers.* Each answered in the affirmative.

*Question*, by the same, to *Thomas L. Rogers*, *The Wind*, *Ezekiel Starr*, and *Wrinklesides*, respectively. "Did you not, in virtue of the act of union and your acceptance of the constitution entered into in 1840, take your seats as members of the national council?"

*Answers.* Each answered in the affirmative.

FORT GIBSON, WEDNESDAY, DECEMBER 18, 1844.

Examination of the seven signers to the "act of union," now present as members of the committee of the "old settlers," continued.

*Question* by the board. In what manner were you appointed or authorized to act for the "Western Cherokees," at the time you met General Arbuckle at Fort Gibson, in June, 1840, for the purpose of entering into the "act of union," and which you signed on the 26th of June, as seen in the original paper now before you?

*Answers*, as follow: *William Rogers*—"I acted on behalf of the Western Cherokees." *Thomas L. Rogers*—"I came here by authority of the Western Cherokees; I signed the 'act of union' of my own accord." *Ezekiel Starr*—"I came here of my own accord; I signed the act without having any authority to do so from my chief or people." *Charles*

*Reece*—"I had no authority from any one, but came, on the invitation of General Arbuckle, to a meeting held for the purpose of bringing about peace between the two parties." *The Wind*—"I was not authorized to come by any one; after I arrived, Mr. Andrew Vann appointed me one of the committee." *Broken Canoe*—"I came, without any authority, on the invitation of General Arbuckle." *Wrinklesides*—"The same."

*Question* by the board. Were there any primary meetings of your people (Western Cherokees) held previous to or after this "act of union," by which you had authority to come or act for the "Western Cherokees?"

*Answered* in the negative by all but *William Rogers*, who said: "I think there were. They were called, I suppose, to settle the difficulties between the Eastern and Western Cherokees."

*Question* by the board. To whom did you consider yourself responsible for the part you took in signing the "act of union?"

*Answers*, as follow: *William Rogers*—"To myself." *Thomas L. Rogers*, *Ezekiel Starr*, *Charles Reece*, *The Wind*, and *Broken Canoe*—"To no one." *Wrinklesides*—"I do not know, as I am a man of no knowledge."

*Question* by the board, respectively addressed to *Mr. John Drew*, a Cherokee of the dominant party, and to *Judge Parris* and *Young Elder*, members of the deputation of the Cherokee government. Were you one of the "old settlers" at the time the "act of union" was signed, in June, 1840? and, if so, do you know by what authority those who signed it on the part of the "old settlers" acted?

*Answered* as follows: *Mr. John Drew*—"I was an 'old settler' at the time. I do not positively know their authority. But I was present in their committee room at Fort Gibson, Mr. William Rogers being chairman, when one of their number (twelve) left them, (Mr. William Thornton); and they appointed in his place his brother Charles. They appeared to be acting by national authority. We met them, and regarded them as authorized delegates." *Judge Parris*—"I was an 'old settler' at the time. I do not know, of my own knowledge, the authority of those signers; but the understanding was, that John Rogers was principal chief, and had appointed the committee." *Young Elder*, (by interpreter)—"I was an 'old settler.' I did not know, but understood them to be acting with authority."

The committee of the "old settlers" being asked if they had any questions to propound, the following were put to the deputation of the Cherokee government:

*Question* by the board, at the request of the committee of the "old settlers." "Which act of union do you claim to be binding and legal—the union of 1839 or that of 1840? and under which act of union is the present government in operation?"

*Answer*. Both are binding, and the government is in operation under both.

*Question* by the same. "Why was not the act of union, in 1840, (so called,) published together with the laws and constitution?"

*Answer*. The authorized translation and publication of *all* the laws is yet in progress; when it is completed, the act of union will be included.

*Question* by the same. "Did not your delegates, representing the Eastern Cherokees at Fort Gibson, in June, 1840, refuse to sign a constitution

and union drawn up by General Arbuckle, saying that they were not authorized to sign any act of union, without submitting it again to their people for their consideration?"

*Answer.* We do not know that General Arbuckle submitted to us any new constitution. We heard some talk of making a new one, but did not think our instructions permitted us to entertain such a proposition. We went, not to make a new constitution, but to try and bring all together under the existing constitution.

The examination of *General Arbuckle* was then resumed, and the following additional questions were put to him *by the committee of "old settlers."*

*Question.* "Did not you draught a union and constitution for the Eastern and Western Cherokees?"

*Answer.* Yes; I made imperfect draughts of both.

*Question.* "Did not the Western Cherokees agree to sign the act of union and constitution drawn by yourself, provided you said it was a good one?"

*Answer.* I do not recollect.

*Question.* "Did you then say to the Western Cherokee delegation, that you would go to the Eastern Cherokee delegation, and get them to sign the act of union and constitution drawn up by yourself?"

*Answer.* I think it probable I did.

*Question.* "Did you not destroy that act of union and constitution drawn by yourself, and come back with the act of union of 1839, and say to the Western Cherokee delegation, that they must sign it?"

*Answer.* I do not know whether I destroyed those papers. I do not remember any such transaction as the act of union of 1839.

*Question.* "Did not some of the Western Cherokee delegation refuse to sign the union of 1839, saying they were not authorized to do so? and did you not tell them that they must do it?"

*Answer.* I cannot recollect remarking to any party that they must sign any act.

*Additional question* propounded by the deputation from the Cherokee government. "Did you ever make known to the committee of the Eastern Cherokees, that the 'act of union' entered into at this place, before it would be legally binding, must receive the concurrence of the 'old settlers,' in general convention assembled?"

*Answer.* I think I told them nothing of that sort; I am under the impression that the "old settlers" did not intend to submit it to their people.

*Additional questions* by the board to *General Arbuckle*. By whom was it said, or from what authority was it communicated to the "old settlers," that *seventy dollars* (or any other sum) would be the lowest amount that would be received by them as "per capita" under the "act of union?"

*Answer.* I told them myself, that, in my opinion, the "per capita" money would amount to at least *seventy dollars*; others thought it would amount to *ninety* or a *hundred*.

*Question.* "Do you know of the Eastern Cherokees having ever held out to the 'old settlers' the prospect of receiving any precise amount of the 'per capita'?"

*Answer.* I do not.



The deputation from the Cherokee government this day took their leave, and returned to Tahlequah.

FORT GIBSON, THURSDAY, DECEMBER 19, 1844.

The inquiry relative to the "act of union" was continued, as follows:

*Questions* by the board to the "Western Cherokees." How many of your people held office in virtue of the "act of union" under the existing constitution of the Cherokee nation, and did they take the oath to support the same?

*Answer.* We do not know how many of our people held office in virtue of the "act of union" under the existing constitution of the Cherokee nation, but believe the list below (*i. e.*, in answer to the next question) contains all, or all with the exception of one or two.

*Question.* How many of your deputation here present have held office since the "act of union" of 1840? and please specify the offices.

*Answer.* 1. *John Smith* was one of the executive council—took no oath. 2. *William Dutch* was a member of the committee, and took an oath to support the constitution, while holding office under the same, as he understood it. 3. *Thomas L. Rogers* held the office of district judge, and took an oath to do his duty as judge. 4. *Judge Wind*, member of the committee, took the oath to support the constitution, while in office, as he understood it. 5. *William Drew*, member of council and committee, took the oath to support the constitution, while in office, only as he understood it. 6. *Richard Drew*, member of council, took the oath to support the constitution, while in office, as he understood it. 7. *Bluford West*, district judge, took an oath to do his duty as judge.

The board then proceeded, in the order of investigation, to the inquiry, "Whether any and what specific acts of *violence* or *oppression*, or of *deprivation* of the possession of *property*, have been exercised upon the chiefs or common Indians of the 'old settlers' and 'treaty party,' since the arrival of the 'Ross party' in the Cherokee country west, in 1838?"

Accordingly, the following QUESTIONS TO THE COMMITTEE OF THE "OLD SETTLERS" were put by the board:

*Question.* Please to specify the particular acts of alleged "*violence* or *oppression*," if any, which have been practised upon the "old settlers" by the Cherokee authorities, the present dominant party, since the "act of union?"

*Answers.* *Thomas L. Rogers* states: "I was taken up near Fort Gibson, in January, 1844, by the 'police companies,' carried to Tahlequah, kept there two days, and released without trial, though I demanded one. Others were taken up (it is understood on a charge of treason) at the same time, viz: *J. S. Knight*, *John Ellett*, *Alexander Cochran*, and *William Freshowre*, white men, with Cherokee families—*Wiley Butler*, *Cayugetee*, and *James Gore*, Cherokees."

*The Wind* states: In the fall of 1843, Captain John Rogers sent me word to come and see the agent, (Governor Butler,) just returned from Washington. I told my neighbors, and got a good many of them to accompany me. On arriving at Fort Smith, Captain Rogers said we would "go see the agent, and hear the news;" and told me to report to the agent

about the election of chief, as a good many were dissatisfied about it. On account of this interview, I was arrested by the "police companies," sent to Tahlequah, and released the second day; I was in custody altogether eight days. Three days after my release, I was shot at by some one. Five others, at the same time, and for the same cause assigned, were arrested with me, viz: *George Crapo, James Holt, Samuel Williams, Crane, and Sawnee Vann*. Before released, a paper was sent us, with Mr. Ross's order for our release, if we would sign it. I do not know what the paper was. Five signed it; *Williams* refused, was kept in confinement, and wore a large chain for one night; was then taken to Skin bayou, and, after ten days' confinement, was tried and acquitted. The charge was, "conspiracy against the laws of the nation," and his visit to Fort Smith was the cause assigned.

*John Harnage* states: *Samuel McDaniels* and *James Starr, jr.*, were taken up in 1843 by the "police companies," and put in chains. One broke custody; the other was released without trial. I do not know what the charge was against either. *McDaniels* was taken up a few days ago, and kept under guard one night, for insulting the captain of a company.

*Question.* Please to specify the particular cases, if any, in which the chiefs or common Indians of the "old settlers" have been deprived of their property by the Cherokee authorities?

*Answered* by the following statement: Statement specifying the names of persons who have been deprived of their property in saline springs and wells, and of all improvements within half a mile of the well or spring of each, viz:

- |                                    |   |
|------------------------------------|---|
| 1. Captain John Rogers,            | } Each of a saline spring held under lease from the "old settlers." |
| 2. Mrs. A. Webber,                 |   |
| 3. John Brown, jr.,                | } Each of a saline spring.  |
| 4. James McKay,                    |   |
| 5. Big Cabin,                      |   |
| 6. Thomas L. Rogers,               |   |
| 7. Bluford West,                   | } Each of a saline well bored by him.                               |
| 8. James McNair, ("treaty party,") |   |

The pretext for dispossessing these persons was a law of the nation, passed in 1843. The improvements erected by the holders were in several instances of great value. We understood they were to have been paid a liberal valuation; but we do not think any has been paid. The provisions of that law we regard as unjust and oppressive.

In answer to the same question, *John L. McCoy* made a complaint, that a gun and pistol (value *sixty-five* dollars) had been taken from him by *Alexander Foreman*, captain of a "police company." It will be found, as subsequently amplified by him, in a written statement, marked "N," (appendix.)

FORT GIBSON, FRIDAY, DECEMBER 20, 1844.

Examination of yesterday resumed.

*Question.* Have the laws of the nation been executed alike, and equal justice been dispensed to all the parties of the Cherokee nation?

*Answer* (by the whole committee, unanimously.) No.

*Question.* Please to specify the cases in which the laws of the nation

have been executed with partiality, and to the prejudice of any of the "old settlers?"

*Answer.* Mr. *William L. Holt* had two cases tried in courts under the present government, in which partiality was shown against him. In the first case, Mr. Holt gained a cause in the circuit court; an appeal being taken to the supreme court, that court decided in his favor, but threw the costs upon him. The account of these costs has never been presented for collection. In the second case, Mr. Holt prosecuted *Fish*, sometimes called *Moneystealer*, for theft, (in stealing his hogs,) in a criminal court. *Fish* was acquitted, on the ground that he killed the hogs three or four miles from Mr. Holt's place, and took them publicly home. Mr. Holt then sued *Fish* in the circuit court, and recovered damages. An appeal being taken, the supreme court decided that it was a criminal case, and dismissed it, thereby throwing the costs on Mr. Holt.

[*Question* by the board to Mr. *William Drew*, late a member of the national council. Has there ever been any appropriation by the Cherokee council to pay for the salines, as valued and taken from individuals?

*Answer.* There never has, to my knowledge. I resigned my seat in the national council a few days since.]

*Question.* Please to specify the instances in which the "Western Cherokees" do not enjoy in as much security, liberty, property, and life, and are not treated with the same indulgence, as the rest of the Cherokees?

*Answer.* Where property was not safe, we will cite, for instance, the seizure of property—(other than the salines,) under the pretext of law, which could not be held by law, and was yet never restored—from *James Carey*, *John Smith*, *John Rogers*, *Thomas L. Rogers*, *Bluford West*, *Mrs. Webber*, and various others.

*Samuel Williams*, *Thomas L. Rogers*, *Judge Wind*, and many others, have (as heretofore stated) been arbitrarily deprived of their liberty, and restored to it without cause assigned.

The lives of all, more or less, have been threatened, and are not now safe—witness the late attempt upon the life of Captain *William Dutch*, by the armed police of Mr. Ross. Captain *John Rogers* cannot now approach his own home, neither can *James Carey* or *Thomas L. Rogers*, without imminent danger of assassination. Several of those who signed the list in your hands have been pursued by the armed bands of John Ross, only a day or two back. One was taken, and, as we are informed, was very near losing his life by their hands.

*Question.* Were there any promises, assurances, or inducements, held out by the United States, or the "Eastern Cherokees," to the "Western Cherokees," to enter into and sign the "act of union" of 1840, that have not been realized? If so, what were they?

*Answer.* There never were any promises, assurances, or inducements, held out to the "Western Cherokees" by the United States Government; but we believe, and hoped we had satisfactorily shown to the honorable board of commissioners, through the evidence of General *Arbuckle*, that a very strong moral influence was exerted by the United States Government, through their officer in command, over the meeting of "Western Cherokees," held at Fort Gibson in 1840, to induce them to enter into and sign the so-called "act of union."

*Question.* Was there any inducement, in the shape of "*per capita*" money, or head-right money, promised or held out to the "Western Cher-

okees," by those from the east, to enter into the "act of union," either of 1839 or 1840?

*Answer.* We know of no "act of union," either of 1839 or 1840; therefore, can know of no inducements held out to the "Western Cherokees," or "old settlers." It would appear that, upon the face of an instrument, called an "act of union," &c., an interest in the lands held by the "Eastern Cherokees" east of the Mississippi river, was vested in the "Western Cherokees;" but what has been signed by a few unauthorized individuals, and positively denied by the people in general council assembled, we, as the authorized representatives of said people, cannot notice. What inducements may have been held out to them, as individuals, we do not know.

*Question.* When and where "did the people in general council assemble," and by whom was it called, to pronounce upon the "act of union," as stated in the foregoing answer?

*Answer.* The people met in general council at Tahluntuskey, on the 4th of December, 1844, at the call of the United States commissioners, (as seen by Governor Butler's proclamation,) for the purpose of making known their grievances to the United States Government, through the said commissioners. The pretended "act of union" was one of the greatest grievances under which the people labored, and they took the opportunity said council presented to enter their solemn protest, through their legal representatives, the present committee, against the so-called "act of union."

*[Addendum to the above answer, which the board agreed to receive by way of explanation.]*

When the people signed the roll in the possession of the honorable Board of Commissioners, they severally and individually answered the commissioners, who asked the question for their own satisfaction, that they would abide by the "acts and deeds" of said committee, as their legal representatives.]

FORT GIBSON, SATURDAY, DECEMBER 21, 1844.

The formal investigation of the complaints of the "old settlers," or "Western Cherokees," having terminated, they were so informed, with the understanding, if required, they would again be called.

FORT GIBSON, MONDAY, DECEMBER 23, 1844.

*William Rogers, Thomas L. Rogers, Ezekiel Starr, and The Wind,* members of the committee of the "old settlers," and signers to the act of union of 1840, were again called and interrogated, as follows, (see their testimony, *ante*.)

*Question.* What was your understanding when you signed the "act of union," in 1840, relative to any promises, expectations, or inducements, held out from any quarter, touching the *per capita* or head-right money, or lands east of the Mississippi, mentioned in said act, and which have not been realized?

*Answers.* *William Rogers*, (brother of Captain John Rogers:) I was induced to sign the act of union by the advice and persuasion of Genera



Arbuckle, for the sake of peace to the country. He said that, as our numbers were few, or that as we were the weaker party, it was the best thing we could do; that if there was any wrong done us, the United States Government would sooner or later do us justice. I was going off, and did not intend to sign the act, in consequence of John Rogers positively affirming that we were giving up our rights, &c., and getting nothing in return. As I was passing General Arbuckle's quarters, he called me in, and spoke as I have stated. I always had, and still have, like all the Western Cherokees, the greatest confidence in General Arbuckle, and therefore, upon his advice, signed the act.

*Thomas L. Rogers*, (son of Captain John Rogers:) I was going off without signing the act, but was called to by General Arbuckle, and advised and persuaded to sign it. He further said, that we must sign; that it would not be binding on us until ratified and confirmed by our people. I had no authority from my people to sign it, and did so from the representations of General Arbuckle, and the hope that it would stop the further effusion of blood. Some time after this, the dominant party made a law prohibiting any assemblage of the people, unless called by the authorities of the nation. There was some talk about referring the matter to the people, but the signers dispersed, and two of the chiefs went off; and nothing more was attempted to be done in the matter.

*Ezekiel Starr*: I do not remember that the subject was mentioned at the time of signing the act; it was generally talked of among the people, that all would share equally. It was understood by myself, that, as Ross had never acknowledged the treaty of 1835, a new treaty would be made, and then those lands east of the Mississippi would, with those west, be one common stock for the benefit of all.

*The Wind*, (by interpreter:) When the act of union was signed, it was read in English, and not interpreted to me, and I therefore did not exactly know the contents of the paper as to the eastern lands. As to the *per capita*, I do not remember to have heard any thing said about it at the time; but, being in company with Mr. Andrew Vann, he told me the terms agreed upon were, that it was to be equally divided between all the Cherokees.

The committee representing the "treaty party," having been notified to attend, appeared before the Board, when the exposition, heretofore made, of the nature and scope of the inquiry was repeated.

The committee then submitted a written statement (marked "O," appendix) of alleged "wrongs and oppressions," accompanied by a "memorial," being Doc. No. 234, H. R., 28th Congress, 1st session, April 13, 1844.

In pursuing the inquiry, a series of questions were put to the committee, which were answered as follows:

*Question.* Please to specify the particular acts of alleged "violence or oppression," if any, which have been practised upon the "treaty party" by the Cherokee authorities, the present dominant party, since their arrival in the Cherokee country west, in 1838?

*Answer.* The decree of outlawry passed against the "treaty party" at the convention in the summer of 1839; the trials of the Wests, and the punishment of John West, contrary to any of their laws; claiming and detaining some of the members of the "treaty party" without any crime being alleged, in the fall of 1843; and the act authorizing the establishment

of a standing army is one of which we would complain, as tending to prevent the free expression of public opinion.

*Question.* Please to specify the particular cases, if any, in which the chiefs or common Indians of the "treaty party" have been deprived of their property by the Cherokee authorities?

*Answer.* By a law, *James McNair* was, in January last, deprived of his saline and some of his improvements in its vicinity, and *John Duncan* deprived of the benefit of the "stay law."

*Question.* Have the laws of the nation been executed alike, and equal justice dispensed to all the parties of the Cherokees? If not, specify cases.

*Answer.* The trial, in 1843, of *Thomas Baldrige*, of the dominant party, for the wilful murder of one of the "treaty party," and his acquittal; the trials of the *Wests*, in the autumn of 1843, and the case of *John Duncan*, cited above, are instances in which the laws have not been equally administered and equal justice dispensed. Also, the case of *Worm*, one of the "treaty party," in the spring of 1844, who was condemned to be hung, but escaped custody; he was retaken after the time expired in which he was to have been hanged, and, by the vote of a few men, was executed by the sheriff.

*Question.* Do the "treaty party" enjoy, under the 'act of union,' [the present Cherokee government,] "liberty, property, and life, in as much security as the rest of the Cherokees? and are they treated with the same indulgence?"

*Answer.* They do not; nor are they treated with the same indulgence, viz: *White Path*, of the dominant party, who committed wilful murder, but has not been tried.

*Question.* Specify the cases of "acts of violence or oppression," by the decree of outlawry, or practised by the police, in the fall of 1843, and to which you refer in your answer to *question 1st*, above?

*Answer.* We refer you to our memorial to Congress in April, 1844, Exhibit D No. 1, [Doc. No. 234, H. R., 28th Congress, 1st session, April 13, 1844,] relative to outlawry. Respecting the oppression of the police, in the fall of 1843, we mention *E. G. Smith*, of the "treaty party." They took him up, made him a prisoner, kept him in chains eighteen days at Tahlequah, and then turned him loose without trial, or charges being preferred. The alleged causes of that treatment were never ascertained. *Smith's* brother *William* was served in the same way at the same time; also, *Samuel McDaniel*, *James Taylor*, *William Nicholson*, *William Bean*, *John Hammond*, *David Miller*, *William Rogers*, (white man, Cherokee citizen,) &c.

FORT GIBSON, TUESDAY, DECEMBER 24, 1844.

The formal investigation of the complaints of the "treaty party" having terminated, they were so informed.

The committees appointed to represent the "Western Cherokees" and "treaty party" were summoned to attend this morning, when General Jones made the following remarks:

The Commissioners have heard all that they understand you wish to say respecting the matters to be inquired into in the Cherokee nation, with which they have been charged by the Secretary of War, and you are now informed that their business with you terminates this day.

The Commission purpose to meet at Tahlequah, Friday, the 27th, for the purpose of making necessary inquiry there of the Cherokee authorities.

As you know, we have heretofore informed you that justice and a correct knowledge of the real state of facts would require that both sides should be heard, we think it proper that some of you should be present; and, as the representatives of the parties complaining, we recommend that you appoint from among yourselves deputations of six or eight to be with us at Tahlequah.

Your written complaint, received a few days since, of the searching of Captain Dutch's house, and the threat to scalp him, by one of the "police companies," the evening after the adjournment of the council at Tahlantuskey, has been inquired into, and we are glad to inform you that very satisfactory explanations have been received from the Principal Chief, which show that, in this instance, the grounds of complaint and alarm are more imaginary than real.

In giving the complainants the assurance of their safety from apprehended molestation by the Cherokee authorities, on account of their attending the meetings called by the Commissioners, (which Mr. Ross confidently informs us will be the case,) it may be well again to remark, at the moment of parting with you, that the protection guarantied in behalf of the United States cannot embrace any time or cover any offence or circumstance not connected with the Commission in the Cherokee nation.

On returning to your homes, we hope you will impress upon the minds of all your people the high importance of strict obedience to the laws of the nation.

In taking leave of you, as friends of the Cherokee people, let us once more exhort you not to be unmindful of the beneficent intentions of the President in sending this Commission into the nation, to inquire into your difficulties and complaints.

Let our parting voice be heard in the words of the friendly admonition which first reached your ear when we met at Tahlantuskey. We exhort you now, as then, to be peaceful, calm, friendly. Let your words and conduct be tempered with a Christian spirit, and marked by a generous bearing each towards the other, by the strong as well as the weaker party; and remember that you are still the brethren of *one nation*, as we are all children of the One Great Spirit, to whom we are accountable for our acts as certainly as we are here assembled together this day.

We wish you a safe return to your friends and families.

The Board then went into an examination of John Brown and Captain John Rogers, former chiefs of the "Western Cherokees."

*John Brown* was interrogated, as follows:

*Question.* What was the object of the meeting, in June, 1839, at the Double Springs, between the "Western Cherokees" and the emigrants?

*Answer.* To form a government between the two parties.

*Question.* Was it effected?

*Answer.* No.

*Question.* Why was it not?

*Answer.* The proposition made by Mr. Ross and the emigrating party was not regarded as just.

*Question.* When and where was the next meeting held for the same object?

*Answer.* In the month of July, of the same year, at Tahluntuskey, (near the mouth of the Illinois river.)

*Question.* What was done at that meeting?

*Answer.* The Ross or emigrating party here sent us, through a committee of four or five of their people, an "act of union," for our adoption, having for its object to unite with us as one people, which was unanimously rejected, with only one exception, John Looney. We then applied to Captain Armstrong, acting superintendent of the Western frontier, for protection and support, agreeably to treaty stipulations, but never received any reply. This was some time the last of July.

*Question.* When did you resign or give up your authority as chief?

*Answer.* I did not resign at all, but left the country for the city of Mexico on the 4th of October, 1839?

*Question.* Why did you leave the country?

*Answer.* I was the Principal Chief, and wished to prevent the forming of the "act of union" on the terms that I thought ruinous to the "Western Cherokees," and supposed that in my absence, as chief, no act could legally be formed or entered into.

*Question.* Did you give any notice to your people, to the country, or to the Government of the United States, of your intention to leave?

*Answer.* No; I left with the national secretary, W. Thornton, all papers, and put in his possession my reasons, that nothing could be effected in my absence.

*Captain John Rogers* was then interrogated, as follows:

*Question.* Did you succeed Mr. John Brown as Principal Chief; if so, when?

*Answer.* I did, in October, 1839.

*Question.* What occurred in the interval between the council at the Double Springs, in June, 1839, and that at Tahluntuskey, in July, 1839?

*Answer.* After the first meeting broke up without effecting any thing, Mr. Ross and his people immediately withdrew, and called a meeting at the Illinois camp ground, to which he invited the "Western Cherokees."

*Question.* How many men of authority among the "Western Cherokees" attended the meeting at the Illinois camp ground?

*Answer.* None.

*Question.* What occurred at that meeting?

*Answer.* I understood they formed a constitution.

The Board adjourned, to meet at Tahlequah on the 27th instant.

TAHLEQUAH, FRIDAY, DECEMBER 27, 1844.

The Board met, pursuant to adjournment.

The Commissioners were met by the Principal Chief and executive council of the Cherokee nation, in the court-house, which had been provided for their reception.

In the absence of General Jones, detained at Fort Gibson, Colonel Mason announced the object of the Commission in meeting at this place.

No deputation from either of the complaining parties appeared.



The authorities were requested to read the written statements of the complainants, and their answers to certain questions brought forward in the general examination of alleged wrongs and oppressions, and to submit in writing whatever they might have to say.

TAHLEQUAH, SATURDAY, DECEMBER 28, 1844.

General Jones joined the Board.

Business with the Cherokee authorities continued.

TAHLEQUAH, FRIDAY, JANUARY 3, 1845.

The Commissioners occupied with the examination of signers to the act of union of 1840.

*Questions to Charles Thornton*, "old settler," and a member of the committee of "Western Cherokees," who signed the act of union of 1840, at Fort Gibson:

*Question.* In what manner, and by whose authority, were you appointed to act as one of the committee to represent the "Western Cherokees," when you signed the act of union at Fort Gibson, in June, 1840?

*Answer.* The council of the "Western Cherokees," elected by the people, and sitting at Tahluntuskey, in 1839, sent a delegation to meet the emigrants, (I think at the Illinois camp ground,) for the purpose of settling existing difficulties. The individuals thus sent met the summer following, at Fort Gibson, together with others. These I considered the authorities of the "Western Cherokees."

I understood that General Arbuckle notified the chiefs, and they took steps to send the proper persons to represent them to Fort Gibson.

A vacancy occurring in this body, while there, by the withdrawal of my brother, they themselves, following the custom of the nation, filled the vacancy, electing me.

After consulting together and seeing the act of union, the delegation appointed a committee from among themselves to sign that act; of that committee I was one.

*Question.* State what you know or believe respecting the sanction or acquiescence in the act of union at the time, on the part of the chiefs and headmen of the "Western Cherokees."

*Answer.* After the signing of the act, we went to General Arbuckle's, and drank congratulatory toasts together. Captain Rogers was among us. It was at the urgent solicitation of Captain Rogers himself that I was induced to sign the act.

[Mr. Thornton further states: There was much talk among the delegation about the *per capita*. They had all formed high expectations, variously estimating it at from one hundred to two hundred dollars. If they all had thought, as I did, that we would get nothing, I think they would not have entered into that act in the same form in which they did agree to it.]

*Question.* Did the "Western Cherokees" generally appear to be satisfied with the act of union, after the council left Fort Gibson and returned home?

*Answer.* In general they did; but some few became dissatisfied.

*Question.* Do you know how soon it was after the union was entered into that the "Western Cherokees" denied its validity?

*Answer.* I never have heard them deny its *validity*; but, some months after the act, Captain Rogers and others began to complain that the obligations of the act with respect to the *per capita* were not carried out—the understanding being, that money was to have been paid out very soon. And Captain Rogers was also disappointed at Mr. Ross's not being dispossessed of the chiefship, which he had looked for. Captain Rogers and I had a dispute on that subject, in the presence of General Arbuckle.

*Question.* In what manner, when, and by whom, were appointments to office made from among the "old settlers," as stipulated by the act of union entered into at Fort Gibson in June, 1840?

*Answer.* The offices held by the "Eastern Cherokees," and vacated by them under the agreement, were filled by our delegation at Fort Gibson, at the same time the act was signed, in the following manner: Captain Rogers and a committee nominated several suitable candidates for each office, and the whole body selected the officers by vote from among those thus nominated. I was one of those so elected. The agreement was, we should have one third of the offices. They gave us rather more than one-third, giving us the advantage of the unequal division.

Joseph Vann, then second chief, resigned his office, and the vacancy was filled by us by the appointment of Andrew Vann.

Among the other officers thus elected to fill vacancies created by resignation, I recollect the following: Thomas L. Rogers, Ezekiel Starr, Samuel Bell, myself, William Thornton, and Riley Thoruton.

*Richard Taylor*, "Eastern Cherokee," now a member of the Executive Council, and one of the committee of the "Eastern Cherokees," who signed the act of union of 1840, was interrogated as follows:

*Question.* Were you one of the delegation deputed by the "Eastern Cherokees" to form the "act of union" at Fort Gibson, in June, 1840? If so, please to state what you know with respect to the sanction and acquiescence in the measure on the part of the chiefs and headmen of the "Western Cherokees."

*Answer.* I was one of those appointed by the authorities of the nation for that purpose. I understood every thing to be done regularly. The chiefs and headmen of the "Western Cherokees" then present acquiesced very cheerfully. After the signing of the act, there was a speech made on behalf of the "Western Cherokees," expressing satisfaction with the result. We went to General Arbuckle's by invitation, and Captain Rogers drank a toast with me, expressing his gratification at what had been done, and hoping "that all that was done that day might never be undone."

TAHLEQUAH, SATURDAY, JANUARY 4, 1845.

Governor Butler absent, engaged with the Commission appointed to make a treaty with the Creeks and Seminoles.

The Commissioners occupied in examining original documents relative to the act of union of 1839, the deposing of John Brown and John Rogers, late chiefs of the "Western Cherokees," and also other matters.

The original was exhibited of the "act of union," entered into at Illinois camp ground, July 12, 1839, which was at that time subscribed by the

committees of a convention of Eastern and Western Cherokees, and on the 23d of August following by more than fifteen hundred of both parties.

The original was exhibited of a resolution passed by a convention of "Western Cherokees," deposing *John Brown* and *John Rogers* from the office of chiefs, and signed by two hundred and sixty-one, styling themselves "Western Cherokees;" (for a copy of which, see Appendix "U," document G.)

The answers and statements of the Cherokee authorities not being ready, the Commissioners returned to Fort Gibson, Sunday, January 5.

#### FORT GIBSON, MONDAY, JANUARY 6, 1845.

*Captain John Rogers*, formerly a chief of the "Western Cherokees," and now regarded as the head of the complainants, was again called and interrogated :

*Question.* In what manner was the act of union brought about by the "Eastern Cherokees" and "old settlers" in 1839 ?

*Answer.* After failing to effect any thing at the Double Springs, in June, 1839, Mr. Ross called a convention of the Eastern and Western Cherokees, at the Illinois camp ground. None of the Cherokee authorities attended that convention, or had any thing to do with it. The act of union entered into at that time and place was signed by unauthorized persons, some of them self-styled chiefs. The "Western Cherokees" knowing that those attending there had no authority for any procedure they might have, they paid no attention to them. The "Eastern Cherokees" caught up a few "Western Cherokees," and got them to sign.

August, 1839, a few of the "old settlers," say not more than thirty-five, who were *bona fide* old settlers, signed a paper, together with others, deposing Brown and myself as chiefs. I am satisfied that there were not more than I have stated; because I sent Mr. William Holt to the Illinois camp ground to watch and observe, and he reported that there were but thirty-five actual "old settlers" who signed.

Soon after, I received a polite note from Mr. Coody, informing me that I was no longer chief.

*Question.* In what manner was the act of union in June, 1840, brought about, and were there any inducements held out to the "old settlers," from any quarter, to enter into that union, which have not been realized?

*Answer.* In 1840, say about the end of May or early part of June, General Arbuckle, by the direction, as he informed me, of the Secretary of War, invited a deputation of Eastern and Western Cherokees to meet at Fort Gibson, to see if the differences then existing between them could not be reconciled, harmony restored, and an union formed that would be agreeable to all concerned. I was notified by the General, in writing, that it was his wish that the "old settlers" should send a deputation or delegation from among themselves for the purposes above stated, to meet at Fort Gibson.

A delegation from the "old settlers" was sent, agreeably to General Arbuckle's request. We met at Fort Gibson in June, 1840, and, after being in session for a number of days without being able to come to any determination, the General asked us if we would sign such an union as he would draw up; we replied, we would. He soon after presented to us his project, to which we agreed, and which we were ready to sign. He

took it to the committee or delegation of the "Eastern Cherokees," who were also in session at the same time and place.

They refused to have any thing to do with it.

The General then came to us much displeased. We were displeased; for it was obvious to us then that the "Eastern Cherokees" would accept nothing short of their pretended act of union of 1839.

Inducements and promises were held out to us to sign the act of union in 1840, which was the same as that of 1839. We were told by them, the "Eastern Cherokees," that if our delegation would enter into and sign that act of union, (1840,) we should share equally with them the *per capita* money, which would be somewhere between one hundred and two hundred dollars per head; that we should share equally, also, in their unsold lands east of the Mississippi river, which was the "old nation," and which they declared never had been sold.

I well knew at the time that their lands east of the Mississippi had been sold to the United States, and that they did not own one foot there, and so told all my people, as well as those who made these promises. None of these promises and assurances have yet been made good.

A very strong influence was brought to bear on the "old settlers," by the United States Government, through General Arbuckle, in whom the "old settlers" had unbounded confidence. He advised and prevailed upon them to sign the act of union of 1840, and told me that this act of union should not be binding until a majority of the "old settlers" should confirm it.

When I was called on by the General to send a delegation, on the part of the "old settlers," to Fort Gibson, I notified the national committee of the "old settlers" and the business men of the nation to assemble at the fort, as the General desired; and those who assembled there did so in consequence of what I have above stated.

*Question.* Did you express yourself satisfied with what had been done at the time, after the act of union of 1840 was signed?

*Answer.* Yes: At General Arbuckle's quarters I said I was glad the matter was settled, and harmony restored.

*Question.* Have you ever received any compensation, in the way of pay, from the present Cherokee government, for services rendered under the government of the "old settlers" prior to the act of union in 1840?

*Answer.* Yes, in part; but it was paid out of funds in their hands belonging to the "old settlers." They held the annuities due us.

One-half per cent. was charged me by the treasurer, Mr. Vann, on all money thus paid me. I am told he charges all persons he pays in the same way.

TAHLEQUAH, TUESDAY, JANUARY 7, 1845.

Colonel Mason and Governor Butler returned, and resumed the investigation at this place; General Jones remaining at Fort Gibson on business connected with the Commission.

TAHLEQUAH, WEDNESDAY, JANUARY 8, 1845.

Statements and answers of the Cherokee authorities not yet ready.

At the request of the Board, Mr. Joseph Vann, known as an "old set-



tlar," made a statement of his knowledge of certain matters pertaining to the investigation, (for which statement, see Appendix "T.") Mr. Vann, although now of the dominant party, was the candidate of the "Western Cherokees" in 1843, in opposition to Mr. Ross, for the office of Principal Chief.

TAHLEQUAH, FRIDAY, JANUARY 10, 1845.

The answers to the questions put to the Cherokee authorities were this day submitted, as follows :

*Question.* In what manner was the deputation of the "Eastern Cherokees" appointed or authorized to act, for the purpose of entering into the "act of union" with the "Western Cherokees," at Fort Gibson, in June, 1840?

*Answer.* In reply to this question, it is proper to remark that, in June, 1840, the appellation "Eastern" and "Western Cherokees," as designating distinct communities, had ceased to be applicable, having been merged by the formation of the "act of union" in 1839 into that of the "Cherokee nation;" and that the deputation alluded to was appointed by the national council, not to represent the "Eastern Cherokees," but the Cherokee nation, composed of the great body of the people of which both communities had been composed.

*Question.* What do you know, or what was the understanding, at the time of forming the act of union, in June, 1840, with respect to the *authority* of the delegation or committee of twelve, who, on the part of the "Western Cherokees," did sign the act? Was it, at the time, said or understood, that the twelve signed the compact merely as individuals, and not as a deputation or committee to represent their people?

*Answer.* It was understood that they had been appointed by Mr. John Rogers to represent him and all his adherents; and that they signed the "act of union" in June, 1840, on behalf of themselves and all whom they represented.

*Question.* Please to read the written statement submitted to the Board by the "old settlers" and "treaty party," and state what you have to say on the matters alleged, in writing.

*Answer.* The individuals who have presented those statements claim to be "the legal representatives of the Western Cherokees or 'old settlers,' recognised as such by the United States Government," "in successive treaties, from 1817 down to 1833, which last 'treaty,'" they say, "secured to us in fee simple and forever the possession of all the territory now occupied by the Western and Eastern Cherokees." "We do not recognise," they say, "any *authority, right, or title*, of the Government of the United States, to cede the country solemnly and sacredly guarantied to us by the treaty of 1833, to any or other portion of the Cherokee tribe of Indians known as the 'Eastern Cherokees;' which cession we hold has been illegally and unjustly made by the treaty of 1835, with the last-mentioned Cherokees." "We do solemnly assert that our rights have been wantonly usurped by the Government of the United States."

In regard to the assumption of the complainants to be the legal representatives of the "Western Cherokees" or "old settlers," it may be proper to say, as was remarked in answer to the first question of the Commissioners, that there is now no such community as "Western Cherokees," or

"old settlers," nor "Eastern Cherokees," as distinguished from the Cherokee nation; both those communities having been merged in the existing Cherokee nation, as constituted by the "act of union" in 1839. That the said "act of union," with a few specifications added for the sake of securing unbroken harmony and satisfaction, was approved and adopted in 1840, at Fort Gibson, by the very individuals who now deny its validity; that this approbation was formally given, in the presence of General Arbuckle, and so reported by him to the United States Government. The complainants, then, *are not* the "legal representatives of the 'Western Cherokees' or 'old settlers,' nor of any other portion of the Cherokee people."

To the complaints of these individuals against the Government of the United States, we need make no reply. Nor is it necessary to be at much pains to prove the rights of any of the Eastern Cherokees, who might come to this country, to be, in all respects, the same as those of their brethren who had arrived here before them, inasmuch as, by the "act of union," all such claims are set at rest by vesting in the existing "Cherokee nation" all right and title to public Cherokee lands east and west, as well as all other public interests, which, prior to the formation of said union, "may have vested in either branch of the Cherokee family."

It may, however, on some accounts, be satisfactory to show that, under provisions of treaties, any of the Eastern Cherokees who might come to this country had a perfect and acknowledged right to do so, without first obtaining permission from those who had emigrated before them.

By the treaty of 1819, the Cherokee nation ceded to the United States large tracts of country, "in full satisfaction of all claims which the United States have [had] on them, on account of the cession, to a part of their nation, who have or may hereafter emigrate to Arkansas."

The treaty of 1828, between the United States and the Western Cherokees, clearly contemplating the removal of the Eastern Cherokees to this country, declares it to be "the anxious desire of the Government of the United States to secure to the *Cherokee nation* of Indians, as well those now living within the limits of the Territory of Arkansas as those of their friends and brothers who reside in the States east of the Mississippi, and who may wish to join their brothers of the west, a *permanent* home, and which shall, under the most solemn guaranty of the United States, be and remain theirs forever; *a home* that shall never, in all future time, be embarrassed by having extended around it the lines, or placed over it the jurisdiction of a Territory or State." In no part of any treaty is there a sentence or a word found from which the inference can be drawn, that any right or privilege was secured to the Western Cherokees, which was not equally secured to any or all of the Eastern Cherokees, in the event of their coming to this country.

That this was the view entertained by the Government of the United States when the treaty of 1828 was concluded, is evident, from the fact that the system of emigration was commenced and carried on under its authority, without any further provision being made for the emigrants, so far as land was concerned.

It is also evident that such continued to be the views of the United States Government when the treaty of 1835 was made, in which no hint is found, which involves a doubt, as to the Eastern Cherokees, on coming to this

country, under its provisions, having the same rights as those who had removed here before them.

That such was the view of some, at least, of the Cherokee signers of that treaty, (1828,) appears from the fact that two of them, James Rogers and Thomas Maw, came into the Cherokee country east, immediately on its ratification, as agents to promote emigration to the west.

It may also be observed, that it was under the system of emigration then commenced that many of those, since called "old settlers," came into this country; among whom may be named Mr. John Brown, late chief of the "Western Cherokees."

But, as has been already observed, this question was set at rest by the "act of union," by which all public interests are vested in the existing Cherokee nation, and all public liabilities assumed by it. In these arrangements the balance of advantage is greatly in favor of the Western Cherokees, and is so considered by them.

In the second part of this statement the complainants say, "we further protest against the wrongs and tyranny which have been heaped upon us by the usurped powers of the present Cherokee government."

A reference to the fact that the Cherokee government was established by the great body of the people formerly composing the two branches of the Cherokee family, that the almost undivided weight of the intelligence and virtue of both communities was employed in effecting that desirable object, and that it received the approbation and confirmation of all classes of our citizens, among whom were the complainants themselves, will make it evident that the charge of usurpation is utterly groundless. The signatures to the "act of union" and constitution in 1839 and 1840, the testimony of General Arbuckle before the Commissioners, and his reports at the time to the War Department, and the testimony of the complainants before the Commissioners, all go to prove the same thing.

To the objection, "that the laws and government are not adapted to the genius and habits of our people," the general approbation they have received from those of them best qualified to judge will be a sufficient refutation.

To the complaint, "that they are partial in their operation, and exercised with rigor and severity upon that class of the people now opposed to the present usurping party," it may be replied, if the complainants wish to be ranked with that class of citizens whose name they have chosen to appropriate to themselves, (i. e., "old settlers,") they have abundant security for the just administration of the laws, in the ample share which they hold in all departments of the government. But if they rank with the patrons and protectors of the reckless and violent, who infest the country to steal horses, rob and burn houses, and by murderous violence frustrate the operation of wholesome and equitable laws, endangering life, peace, and property—if they rank with these characters, and aim to sustain their course—it is not strange that they should complain of the present government, or any other government that would check their course or endeavor to bring them to justice.

*Question.* Please to read the answer to certain questions put by the Board to the committees of "old settlers" and "treaty party," and state in writing what you have to say relative thereto.

*Answer.* ["The Board entered on the examination of *William Rogers, Thomas L. Rogers, Ezekiel Starr, Charles Reece, The Wind, Broken*

*Canoe*, and *Wrinklesides*, signers of the 'act of union,' and present as members of the committee of 'old settlers.'"]—Extract from minutes.

The testimony elicited goes to confirm the validity of the "act of union." Their appointment and authority is such as it was understood to be, viz: they were appointed by Mr. John Rogers and 'his adherents, and "acted on behalf of themselves and those whom they represented." Their constituents were a small number of persons, who till then had withholden their assent to union of the two parts of the Cherokee people; while the great body of people, with the greater portion of the members of all departments of both the former governments, had already adopted such measures as they deemed indispensable to the preservation of order, and the protection of liberty, property, and life.

The persons named above acknowledge to have signed the act of union, June 26, 1840, to have held offices under the existing constitution, and to have taken an oath to support and defend it. The number and description of offices held by "old settlers" under the existing government will appear in the answer to another question.

[ "The Board proceeded to the inquiry, whether any and what specific act of *violence* or *oppression*, or of *deprivation* of the *possession* of *property*, have been exercised upon the chiefs or common Indians of the 'old settlers' and 'treaty party,' since the arrival of the 'Ross party' in the Cherokee country west, in 1838."

"Question. Please to specify the particular acts of *violence* or *oppression*."—Extract from minutes.

To this question, Thomas L. Rogers states that himself and others, whom he names, were taken up by the "police companies," &c. In order correctly to appreciate the value of these complaints, it will be proper here to state that, previously to the general election in August, 1843, strenuous efforts were made by the contending parties to secure the election of their favorite candidates; that, in Saline district, a number of violent and reckless men, the friends and associates of the complainants, formed a conspiracy to assassinate certain persons of their opponents, to destroy the election registers, and to overturn the government of the country. Accordingly, the day after the election, when the managers met to make out the returns according to law, they were attacked by the Wests and others. Mr. Isaac Bushyhead was brutally murdered, and Mr. David Vann so seriously injured that his life was long despaired of. Several of the accomplices in this murder made their escape, and joined the Starrs, two of whom, Thomas and Bean, stood charged with having murdered David Buffington a few days before.

On measures being taken to bring to justice the perpetrators of the outrages in Saline district, threats were uttered by the accomplices and their friends, that the prisoners would be rescued.

Soon afterwards, a white man, named Kelly, was murdered by Thomas Starr. Mr. Vore, also, a citizen of the United States, a licensed trader in the country, was murdered by Thomas Starr, Bean Starr, and Ellis Starr, together with Mrs. Vore and a traveller who was staying there for the night. The store was robbed, and the house and the dead bodies of the victims were burnt up. Immediately before the perpetration of this outrage, it was discovered that a plot had been laid to murder a number of the prominent men in the nation, and their families, (simultaneously with the murder, robbery, and arson, at Mr. Vore's,) and to seize the public



treasury of the nation. The discovery put a stop to its further accomplishment. The alarm now became general. The people rose in mass, and pursued the ruffians to the Arkansas State line. After crossing the line, the murderers surrendered to General Wood, of the Arkansas militia, of whom they were demanded by Mr. Duval, the acting United States agent, to be delivered over for trial to the authorities of the United States. General Wood refused to give them up, but sent them off towards Fayetteville. The General allowed them to carry their arms; and after riding a few miles on the road to Fayetteville, they left the guard, and made their escape. They returned to the nation, and, with their accomplices, continued for several weeks to hover about the line—sometimes on one side, and sometimes on the other.

By a call on the United States agent, a company of dragoons was ordered out; the most diligent search was made for them, but they managed to elude every effort to recapture them. For several weeks the country was kept in a state of commotion. When the national council met, it was deemed indispensable to the public safety to organize a number of police companies, to aid the regular officers in the preservation of the peace, and in bringing to justice the ruffians who had committed these revolting crimes.

At length they fled from the country, first cutting two horses' throats, and stealing three mules. The police followed them into the prairie about three hundred miles, but failed to secure them.

While they were prowling through the country, it was certain they were harbored and succored somewhere. Suspicion fell on several persons, who were arrested on various charges connected with the movements of this desperate gang. Arrests, however, were not numerous; nor were they made wantonly, nor from caprice. There were always some grounds for the suspicions entertained; though, under such circumstances, it would not be strange if the evidence should sometimes turn out to be insufficient to establish a charge before a court.

Thomas L. Rogers, J. L. Knight, John Elliott, Alexander Cockran, William Freshour, Wiley Butler, Ca-yu ga-tee, and James Gore, were taken on a charge of conspiracy, with the intention to raise a company of Cherokees, and to get whites from over the line to join them in effecting the rescue of the Wests. Thomas L. Rogers was released on his own word, that he would return to his own district, and abide the regular process of the law on the charge. He did not return home, however. The others were tried and acquitted. The character of the white men named above is, that they are gamblers, dissipated and worthless characters, and generally ready to promote movements tending to disturb the peace.

Wiley Butler and Ca-yu-ga-tee have been charged with being associated with James Cary, or Chicken Cock, in stealing horses. The Wind, George Crapo, James Holt, Crane, Sawny Vann, and Samuel Williams, were charged with exciting persons to oppose the laws of the nation, and persuading them to sign a paper in favor of selling the country, all tending to disturb the peace. The paper, *The Wind* says that he and the first five signed as the condition of their release, was written at his own request, to explain their conduct. The signing it was no condition of their release. Williams was tried and acquitted. Samuel McDaniel, named in the answer of John Harnage, was guilty of *harboring and assisting* Thomas Starr, Bean Starr, and Ellis Starr, the *murderers of Mr. Fore's family*. He has since committed a most unprovoked and atrocious murder himself.

James Starr (brother to Ellis Starr, one of the murderers of the Vore family) came to Tablequah, while his brother, Eli Starr, his cousin, Joseph Starr, and David Reece, were in custody, on a charge of having murdered certain citizens of the United States; said he would "*go and get drunk, and come back and run the town.*" He went off, and returned with a gun, blustered, and threatened a good deal. It was judged proper to put him under arrest.

On the subject of the salines, we refer to a statement marked A. John L. McCoy's complaint is altogether frivolous, as will appear from Captain Alexander Foreman's statement, marked B.

In the statements and answers of the complainants, calling themselves the "treaty party," many of the instances are identical with those presented by the individuals who style themselves the "old settlers." Such cases, being already noticed, will not again require particular attention. Joseph Starr, Eli Starr, and David Reece, were delivered over to the military of the United States, to the order of Captain Boone, under the demand of Governor P. M. Butler, United States agent, as will appear by document marked D. They were charged with the murder of certain citizens of the United States.

Lovely Rogers was arrested as an accomplice in the murder of Isaac Bushyhead, the destruction of the election registers of Saline district, and other outrages there committed. He was released from custody on his promise to appear as a witness on the trial of the Wests. He did not appear.

E. G. Smith and his brother, William Smith, were arrested on a charge of assaulting and severely abusing Mr. John Charles, a licensed trader at Flint.

James V. Taylor was put under arrest for attempting to rescue Samuel McDaniel, the harbinger and abettor of the Starrs.

William Nicholson, for being engaged with James Starr (who has already been noticed) in disturbing the peace of the town. William Bean and John Hammond, for outrageous and disorderly conduct, endangering the peace of the town and the safety of the prisoners.

William Rogers, (white man,) for outrageous conduct, and threatening the officers of the police companies for arresting the seditious disturbers of the peace then in custody. This man has since murdered a white man named Jacob Nicholson.

As to the Wests, their offences were so notorious and so audacious, as already noticed, and in their tendency fraught with such frightful consequences, that no remark is here needed to set that case in a clearer light. The trial was conducted with the utmost calmness and deliberation, the ablest counsel was engaged in defence, and the greatest lenity and indulgence was shown to them by the presiding judge. (See Judge Carter's statement, marked E.; also, the correspondence which took place with Brigadier General Z. Taylor on the subject, numbered 1, 2, 3, 4, 5, 6, 7, 8, and 9.)

These things took place during the excitement which was produced by the murder of Bushyhead, the conspiracy to rescue his murderers, the murder, robbery, and burning of Mr. Vore's family, the murder of Kelly, the discovery of the plot to murder a number of the prominent citizens of the nation, to seize the national treasury, and to put down law and order in the country.

John Baldridge, of whose acquittal complaint is made, was regularly tried and acquitted by a jury of his country; and there is no reason to suppose any unfairness in the case. Worm, of whose execution complaint is made, was condemned for murder. We have never heard the slightest intimation that he was unjustly sentenced; and we cannot see why the fact of his having escaped from custody should absolve him from the penalty of the law.

White Path belonged to what was called the "treaty party." If the complainants know him to be guilty, the courts are open; why do they not prosecute him?

For John Duncan's case, we refer to a statement by James Kell, marked F.

*Question.* Among the matters of inquiry respecting the act of union of 1840 and the complaints of the "old settlers" and "treaty party," it is alleged that certain promises and assurances have never been realized, touching certain stipulations under the 12th and 15th articles of the treaty of 1835, with regard to the division among the people of the balance of the several sums therein mentioned, commonly called *per capita* or head-right money. Will you please state the facts of the case, and the cause or causes why the said head-right money has not been divided among all the people claiming the same?

*Answer.* There have no promises nor assurances been made to any portion of the "old settlers," or "treaty party," other than will be found in the act of union itself, which vests "all public interests in the Cherokee nation," as constituted by that "union." And in the supplement made at Fort Gibson, which provides "that any moneys due individuals from the United States as *per capita*, each and every citizen of the Cherokee nation shall participate equally."

No such money has been received by the nation from the United States, nor has any been distributed among any portion of the Cherokee people.

*Question.* In what manner, when, and by whom, were the appointments to office made from among the "old settlers," as stipulated by the "act of union" entered into at Fort Gibson in June, 1840?

*Answer.* The several offices of the government, which John Rogers and his adherents wished to have filled by persons of their choice, were vacated by the voluntary resignations of those who were incumbents at the time, and filled by persons selected, as we understood, by John Rogers and his committee. That is, in the words of the act of union, relating to that transaction, they were "of their own selection, and to be (were) chosen by the council of the "old settlers," now (then) in session." The persons then chosen were afterwards confirmed in their respective offices by a general council of the people at Tahlequah, in October following.

*Question.* State the relative numbers and description of official stations held by the "old settlers" (Western Cherokees) for each year, since June, 1840.

*Answer.* In reply to this question it is stated, that the first election under the existing government of the Cherokee nation was held by the Cherokee people, assembled in general convention at Tahlequah, on the 9th of September, 1839. At this election, the following persons were chosen, to wit:

Chiefs two in number, principal and assistant principal—

John Ross,  
Joseph Vann, O. S. } for four years.

By virtue of the arrangement entered into at Fort Gibson, June 26, 1840, Joseph Vann resigned the office of assistant principal chief, and was succeeded by Andrew M. Vann, who remained in office until his death, in 1842.

September, 1839. The national committee, composed of sixteen members, as follows:

John Drew, O. S.	John Spears, O. S.
William S. Coodey, O. S.	G. W. Gunter.
Thomas Pegg, O. S.	James Spears.
Turtle Fields, O. S.	Hair Conrad.
1837 Joshua Buffington.	1837 Joseph M. Lynch, T. P.
Thigh Walker.	Samuel Chambers, O. S.
E. Gunter.	Bluford West, O. S.
E. Hicks.	

Council, (twenty-four members,) two years:

Tobacco Will, O. S.	Jesse Russell, O. S.
Arch Campbell.	Hunter Langly.
Bark Floot.	Nelson Riley, O. S.
Money Crier.	Sulla-tis-kee Watts, O. S.
Old Fields.	John F. Boot.
Moses Parris, O. S.	J. M. Payne, O. S.
Stop.	Small Back.
Thomas Candy, O. S.	Lewis Melton, O. S.
Young Wolf, O. S.	Big Pheasant, O. S.
Old Bushyhead.	Young Glass.
George Brewer, O. S.	Orkans-to-ta Logan, O. S.
Young Elders, O. S.	Johnson Foreman, T. P.

By virtue of the Fort Gibson arrangement, seats in the national council were provided for the following persons: [1840]

In the committee, others retiring—

*William Rogers, O. S.	John Duncan, O. S.
*James Carey, O. S.	Bluford West, O. S.
Thomas L. Rogers, O. S.	G. W. Adair, T. P.
William Dutch, O. S.	

In council, to wit:

E. Starr, O. S.	*William Holt, O. S.
*Lame Glass, O. S.	Charles Thornton, O. S.
S. W. Bell, T. P.	*Joseph Rogers, T. P.
The Wind, O. S.	Lovely Rogers, T. P.

At the election held in 1841, the following "old settlers" and treaty men were in the committee and council. The committee consists of sixteen members, elected every two years by the people:

Joseph Vann, President, O. S.

James McNair, T. P.	Moses Parris, O. S.
Ezekiel Starr, O. S.	Andrew Sanders, O. S.
William Dutch, O. S.	James Starr, T. P.
Charles Reece, T. P.	Joseph M. Lynch, T. P.
Aaron Price, O. S.	† Daniel McCoy, now T. P.

\* Did not take their seats.

† Served one term, resigned, and succeeded by David Carter, O. S.



In council, twenty-four members :

Archibald Fields, T. P.

Robert Parris, O. S.

Wrinklesides, T. P.

William Drew, O. S.

Richard Drew, O. S.

John L. McCoy, T. P.

Joseph Tally, O. S.

Samuel Chambers, O. S.

The Wind, O. S.

Sawnee Vann, T. P.

Brice Martin, T. P.

John Huss, T. P.

Choo-wa-look-ee, O. S.

John W. West, T. P.

Election in 1843. Committee, sixteen members :

Charles Coodey, O. S., President.

John Drew, O. S.

William Drew, O. S.

\*William Dutch, O. S.

\*Joseph Tally, O. S.

John Spears, O. S.

Jesse Russell, O. S.

Council, twenty-four members :

Tobacco Will, O. S.

Archibald Fields, T. P.

Okanstota Logan, O. S.

Tahlasene, O. S.

Richard Drew, O. S.

Oo-soo-te, O. S.

Lightningbug Bowles, O. S.

Choo wa-look-e, O. S.

James M. Payne, O. S.

1839.—Executive counsellors, five persons :

John Looney, O. S., Aaron Price, O. S., William Dutch, O. S., Richard Taylor, John Smith, O. S., and Broken Canoe, O. S., under the Fort Gibson arrangement, and took the official oath.

This department is composed of five members, among whom, at this time, are the following "old settlers," to wit: John Looney, Eagle, and Big Pheasant.

The Judiciary :

Supreme court—chosen by joint vote of the national council for four years, five in number :

1839.—John Martin, O. S., Looney Price, O. S., W. S. Adair, Jesse Bashyhead, George Hicks.

Riley Thornton came in under the Fort Gibson arrangement. At present Thomas Pegg, O. S., Moses Parris, O. S., and John T. Adair, who came to the nation in 1837, are of the associate judges.

Circuit judges, two in number, both old settlers : John Thorn and Riley Keys.

1840.—District judges, four : Samuel Guess, O. S., William Wilson, (1837,) John Brewer, (1837,) and Thomas Wilson, O. S.

1841.—Eight in all. One treaty man, George Chambers; and seven old settlers, among whom were Thomas L. Rogers, J. M. Starr, Eli Harlin, and Bluford West.

1842.—District judges, eight in all : Samuel Williams, O. S., George Candy, T. P., Eli Harlin, O. S., James Mackey, O. S., Bluford West, O. S., Thomas L. Rogers, O. S., J. M. Starr, O. S., Thomas Davis, O. S.

1843.—Michael Waters, R. G. Anderson, O. S., Bird Doublehead and William Wilson, O. S., Riley Keys, O. S.

1844.—R. G. Anderson, O. S., Looney Riley, O. S., James Kell, T. P., Bird Doublehead, O. S., Jay Hicks, T. P.

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\* Resigned, and succeeded by Nelson Riley and Sheperd, both O. S.

1841.—Solicitors created, eight in number; elected yearly by the national council :

James M. Payne, O. S., D. M. Foreman, T. P., Alexander Foreman, O. S., Jack Spears, O. S., D. R. Coodey, O. S., Johnson Foreman, T. P., Ellis Harlin, T. P., S. W. Bell, T. P.

1842.—Joseph Blackbird, T. P., S. W. Bell, T. P., Josiah Reece, T. P., John Harnage, O. S., Jacob Thorn, O. S., John Spears, O. S.

1843.—Le Roy Keys, O. S., Joseph Blackbird, T. P., Lewis Riley, O. S.

*Question.* Have any liabilities or claims been paid by the present Cherokee government, since June, 1840, which accrued under the government of the Western Cherokees (old settlers) prior to the union of 1840? If so, please to state the sums and to whom and for what account paid.

*Answer.* All unpaid liabilities and just claims which accrued under the government of the Western Cherokees prior to 1840 have been paid by the present Cherokee government. These liabilities were incurred on different accounts, were of different sums, and paid to various persons. It would require much time and labor to examine all the papers pertaining to these claims and liabilities on file. They are, however, open for the inspection of the Commissioners. The aggregate of the different sums paid amounts to many thousand dollars. For the information of the Commissioners, a few cases will be specified :

When accrued.	To whom paid.	For what paid.	Amount.
1835, 1838, 1839	John Smith	President of committee, and chief, and services of others.	\$371 50
1820, 1835, 1836, 1838, 1839, 1840.	John Rogers	Salt and meal, chiefship, &c.	505 00
1836, 1838, 1839, 1840	James Carey	Judge, councilman, and services of others	582 50
1837, 1838, 1839, 1840	William Rogers	Judge, member of committee, beef, &c.	752 00
1835, 1837, 1839, 1840	William Dutch	Member of committee, and chief	386 50
1839, 1840	Broken Canoe	Member of council	152 50
1836, 1837, 1839, 1840	Ellis Phillips	Light-horse, member of committee, and services of others.	342 00
1836, 1837, 1839, 1840	Richard Drew	Member of committee and council	105 50
1839, 1840	Ezekiel Starr	Member of committee, and other accounts	171 00
1836, 1839, 1840	The Wind	Judge, committee, and council	119 50
1839, 1840	Wrinklesides	Council	72 00
1840	Charles Reece	Judge, and member of council	142 50
1839, 1840	John L. McCoy	Member of national council	119 00
1837, 1838, 1839, 1840	Thomas L. Rogers	Member of committee, &c.	116 50
1835, 1836, 1837, 1838, 1839, 1840.	William Thornton	Clerk, judge, committee, &c.	790 75
1839	John Crossland	Money borrowed by John Rogers, John Brown & Co., and interest.	2,345 00

If necessary, other instances can be furnished where the existing government has paid out large sums of money to "old settlers." The above amounts were paid in 1841. They all accrued under the government of the old settlers, or were incurred by the complainants after the union of 1839, and previous to that of 1840. Since the above payments, others have been made to these very individuals, which it is not deemed necessary to specify, as enough has been stated to show that the complainants are made

the recipients of pecuniary benefits under the existing government, the same as other citizens, when they render public services, or bring forward well-authenticated claims of a public nature.

*Question.* Are there any citizens of the dominant party who believe that they cannot enjoy their liberty, property, and lives, in safety? If so, please to state the grounds of such belief, and the source from which such insecurity may be apprehended.

*Answer.* So far as political liberty is concerned, every citizen is equally and sufficiently protected by the laws of the country; but there are strong grounds to apprehend that the lives of a number of individuals are in danger, from the secret plots of violent and lawless men, who have clubbed together for the purpose of plunder, and rapine, and murder. The hostility shown by them at the time of the murder of Isaac Bushyhead, and the assault on David Vann; the banding together of the Wests, who escaped with the Starrs, and the disclosures which were made when the plot was discovered, in the partial execution of which the *Vore family* were murdered, made it certain that they had marked out as victims a number of individuals, whose aim is to promote good order and to sustain the laws of the country.

These apprehensions are proved to be well founded by the disclosures made in the report of Mr. D. R. Coodey, which appeared in the *Cherokee Advocate*, December 26, 1844.

*Question.* Please to state the purpose of creation of the "police companies," and uses to which they are applied.

*Answer.* In Saline district, on the 8th August, 1843, the day after the general election, Isaac Bushyhead was butchered, and David Vann barbarously maltreated by Jacob West and others, who had entered into conspiracy for the purpose of perpetrating violence and trampling under foot the laws of the nation. In the early part of September following, Mr. Vore, licensed trader, residing in the nation, together with his wife, and a traveller spending the night with them, were murdered, robbed, and, with the store of the trader, burnt. A Mr. Kelly, also a citizen of the United States, was killed just before this outrage. The guilt of these crimes rests upon the shoulders of Thomas Starr, Ellis Starr, and Bean Starr. The circumstances connected with these deeds, and the revelations of one supposed to be of their number, proved beyond a doubt that a number of bad men were clubbed together for the purpose of blood and revolution. This state of affairs required the adoption of prompt and efficient measures. Accordingly, police companies were created, for the more effectual preservation of life, liberty, and law. They have since been kept up, not without reason, as it is believed has been made evident to your own observation. It is not denied that they are productive of much expense, an expense which would be willingly foregone, were not the vindication of our laws and the preservation of the lives and property of our citizens at large from the assaults of the reckless, and the outrages of the murderer and assassin, far more precious than dollars and cents. Uses to which they are applied will be seen by a reference to the law organizing them.

*Question.* Do you know upon what grounds Captain John Rogers and James Carey (the Chicken Cock) apprehended molestation from the Cherokee authorities, insomuch that they, the deputies, or organ of the "old settlers," refused to meet the Commissioners in the Cherokee nation, with-

out assurance of protection from the United States, and a military guard to conduct them through the nation?

*Answer.* We do not know upon what grounds Captain John Rogers apprehends molestation from the Cherokee authorities, unless they be those of his own consciousness, and the evidence of having for years past been busily engaged in attempts to foment discord among the Cherokee people, to subvert their government, and to effect a division of them and their country, contrary to the laws of the Cherokee nation.

James Carey, (the Chicken Cock,) it is probable, apprehends molestation from the Cherokee authorities, on the same grounds that Captain John Rogers does, and for a violation of the commandment, "Thou shalt not steal;" as a warrant for his arrest has been in the hands of the sheriff of Tahlequah district since the fall of 1842, to bring him to trial, on the charge of having been concerned in stealing a horse, or horses, from Edward Timson, a citizen of the Cherokee nation.

*Question.* When and how was the convention of both Eastern and Western Cherokees called, and how were the members chosen from the body of the people that formed and signed the act of union of 1839?

*Answer.* On the arrival of the Eastern Cherokees in this country, it was at once felt to be indispensable that a reunion of the two portions of the Cherokee family should be effected, and a system of government settled upon, which would equally protect the various interests of the whole people. Accordingly, it was agreed upon by the chiefs of both parties, that a joint council should be called, the distinct and avowed intention of which was, to accomplish those desirable objects in a manner which should be satisfactory to all concerned. All the people, without distinction, were called to this council, which assembled at Ta-ka-to-ka, or Double Springs, on the 3d day of June, 1839.

After a few days' friendly intercourse, it was proposed by the Eastern chiefs that, "in recognising and embracing each other as countrymen, friends, and relations," we should "kindle our social fire, and take measures for cementing our reunion as a nation, by establishing this basis for a government, suited to the condition and wants of the whole people."

On the 11th of June, in a tone somewhat austere, the Western authorities "ask Messrs. Ross and Lowrey to state, in writing, what they really wish and desire."

On the 13th of June, the Eastern chiefs reply: "We take great pleasure to state, distinctly, that we desire to see the Eastern and Western Cherokees become reunited, and again live as one people." They add: "The representatives of the Eastern Cherokees have this day had this important subject under consideration, and have adopted a set of resolutions in reference to it, based on the strictest rules of equity and justice, which we take pleasure in laying before you."

In the resolutions referred to, the council of the Eastern Cherokees "propose that John Ross, George Lowrey, and Edward Gunter, on the part of the Eastern Cherokees; and John Brown, John Loony, and John Rogers, on the part of the Western Cherokees, are hereby authorized and required to associate with themselves three other persons, to be selected by them from their respective council or committee, and who shall form a select joint committee for the purpose of revising and draughting a code of laws for the government of the Cherokee nation; and that they be, and hereby are, required to lay the same before the general council of the na-



tion, to be held at Ta-ka-to-ka, on the —— day of ——, 1839; and which, when approved, shall be immediately submitted to the people, for their acceptance."

The Western chiefs, forgetting the distinct object of the joint council, now take the ground, which had never before been thought of, that the people had "already been united," and insist that the Eastern Cherokees were already under the Western laws. To this assertion the Eastern council say: "We are compelled to refuse our assent." That "the Eastern nation should be dissolved," say they, "and her existence annihilated, without discussion, without conditions, and without action of any kind, is utterly inconceivable; and the rejection, by the representatives of our western brethren, of the reasonable proposition to unite the two nations, on the basis of the strictest rules of justice and equality, is an act equally unlooked for and surprising."

These proceedings were decidedly disapproved of by the people on both sides, then present, among whom, respectively, were many of their most distinguished and influential men.

On the announcement of the failure of the chiefs and councils to settle upon a plan for uniting the two communities, and establishing a new government, the people having assembled, the "old settlers" called George Guess, and the late emigrants Captain Bushyhead, to preside over their joint deliberations. A series of resolutions were then passed, expressive of their regret that their representatives had not succeeded in effecting the great objects for which this [that] general council was convened." They resolve that they "deem it essential to the welfare and happiness of the community, that the desired union be speedily formed, and a system of government matured, applicable to our present condition." They then resolve that a general convention of the people of the Eastern and Western Cherokees be called, to meet at Illinois camp ground on Monday, the 1st day of July, 1839; "and that the chiefs and members of their respective councils be required to attend also, to aid in carrying those important objects into effect."

The joint convention met, agreeably to the call. A respectable number of the Eastern and Western people were present, among whom were the principal men of the *real* "old settlers;" the Western chiefs declined attending. July 2, George Guess, Tobacco Will, David Melton, and Loony Price, on behalf of the "old settlers" present, wrote a very kind and friendly letter to them, urging the desirableness of their co-operation. They say: "We, the old settlers, are here in council with the late emigrants, and we want you to come up without delay. These people are here in great multitudes, and they are perfectly friendly towards us. They have said, over and over again, that they will be glad to see you;" "that they will receive you with all friendship; there is no drinking here, to disturb the peace, though there are upwards of two thousand people on the ground."

The convention was organized by the election of George Lowrey president of the Eastern, and George Guess of the Western Cherokees. A committee was elected by the people, to mature a plan of union, and to digest and arrange all other business, preparatory to its being laid before the people for their action.

The people themselves, in the exercise of their primary and inalienable rights, *were the convention*, and every act was done by their order and authority.

The act of union was received by the convention, and ordered to be signed by the presidents and the committee, on the 12th day of July, 1839. But, inasmuch as many of the Western Cherokees were laboring to induce the "chiefs, John Brown and John Rogers," to come in; and as the said John Brown and John Rogers had called a council of the "old settlers" at Tahluntuskey, for the avowed purpose of consulting with their people on the subject of joining the convention, it was deemed proper to defer the general signing of the "act of union" until our Western friends (who were desirous to bring in, if possible, all the "old settlers," with their chiefs, at the same time) should have opportunity to act.

The Western people, with the chief, John Looney, (finding that the calling of the council was merely a pretext to prevent a union, not to consult the people, but to promote their own selfish ends, regardless of the tranquillity and best interests of the nation,) held a council, over which John Looney presided, who was *truly* not merely the senior, but the only legal chief of the "Western Cherokees." This council declared John Brown and John Rogers to have "assumed powers incompatible with the liberties of the Cherokee people," to have "betrayed the trust reposed in them, and forfeited the confidence of the said Cherokee people." And the said John Brown and John Rogers were, by the council, pronounced deposed from their offices "of chiefs of the Cherokee nation." (See document G.)

The convention then assembled by a popular call was composed of the people of the Eastern and Western Cherokees, acting by virtue of their primary rights. The committee was elected by the people from among themselves, and signed the "act of union" by their order.

[See, further, communication from the Cherokee authorities, January 14, 1845, marked "U," Appendix.]

FORT GIBSON, FRIDAY, JANUARY 17, 1845.

The Board adjourned *sine die*.

R. JONES, <i>Adj. Gen. U. S. A.</i> ,	} <i>United States</i>
R. B. MASON, <i>Lt. Col. 1st Drag.</i> ,	
P. M. BUTLER, <i>U. S. Agent</i> ,	

*Commissioners.*

Respectfully submitted to the Secretary of War.

## JOURNAL

OF

*The proceedings of the Commission appointed by the Secretary of War, October 18, 1844, to investigate the complaints and difficulties in the Cherokee nation, &c.*

FORT GIBSON, CHEROKEE NATION, NOVEMBER 16, 1844.

General R. Jones, the senior member of the Commission, having reached Fort Gibson the evening of the 15th, with the "commission" and instructions of the Secretary of War, duly notified Lieutenant Colonel Mason and P. M. Butler, Esq.; and being assembled, the letter of instructions was read and considered.

The following are copies of the "commission" and letter of instructions:

WAR DEPARTMENT, *October 18, 1844.*

GENTLEMEN: During the last session of Congress, three delegations of Cherokees were in this city—one representing the "Ross party," with John Ross at its head; one claiming to represent the "old settlers," with John Rogers at its head; and the other claiming to represent the "treaty party," so called. It was alleged by the two latter delegations, that grievous oppressions are practised upon them by the Ross or dominant party, inasmuch that they cannot enjoy their liberty, property, and lives, in safety; and that it was impossible for them to live in peace in the same community with their alleged oppressors. It was further represented by the "old settlers," that the act of union, by virtue of which their Government was superseded, and they were subjected to the constitution and laws of the "Ross party," never was authorized or sanctioned by their people, and that the western Cherokees, who signed it, not only did so without authority, but were induced to do it by promises and assurances which have never been realized.

On the other hand, John Ross and his delegation represented, that the "old settlers" and "treaty party" were enjoying, under the act of union and their freely adopted constitution, liberty, property, and life, in as much security as the rest of the Cherokees, and were treated with the same indulgence; that the great mass of the "old settlers" and "treaty party" were content with their condition; and that all the difficulties were originated and are kept up by a few restless individuals, without any real cause for complaint.

The copies of letters addressed by me, on the 8th July last, to John Ross and others, and on the 9th and 17th of the same month to John Rogers and others, will show you the views entertained by me of these Cherokee difficulties and disagreements; and that among the measures which, it was supposed, it might be necessary to adopt as the duty of the

Government, and just to all parties, was the raising of a commission to inquire, on the spot, and in the Cherokee nation, into the conflicting allegations made by the respective parties into which that people is unfortunately divided.

I hoped that, on the return to their nation of the several delegations, to whom the above letters were addressed, all would have been disposed to sit down in harmony, and that the differences so long existing among the Cherokee people, and so long retarding their further advance in the civilization and refinement, in which they have already made such commendable progress, would have disappeared. If this change, so ardently desired, had happily taken place, the commission referred to would have been unnecessary.

A letter, however, received from Major William Armstrong, dated 14th ultimo, addressed to the Commissioner of Indian Affairs, and referred to me, and a communication to the Adjutant General, from General Gaines, dated 30th ultimo, with its respective enclosures, (of which several papers, marked from 1 to 10, I send copies,) have induced me to recur to the idea of an inquiry, in the nation, into the real state of the facts which are alleged on either hand, and contradicted on the other, by the opposing parties.

It is one of my purposes, and a main one, to know if any considerable portion of the Cherokee people are arrayed in hostile feeling and action against those who are in the rule of the nation—whether confined to a few or many—and the bitterness of the hostility to the dominant party, and, again, to ascertain whether correspondent dispositions and conduct prevail in the majority, who administer the Government, towards the minority, consisting of the “treaty party” and “Western Cherokees;” and the lengths of oppression, resistance, and violence, to which the excitement of each against the other has severally led the parties, and may, in your opinion, from a view of the whole ground, still further lead them. Inquire whether, in fact, the discontent in the Cherokee country is of that extent and intensity in the great mass of the “old settlers” and “treaty party,” that they cannot live peaceably under the same government. Whether any and what specific acts of violence or oppression, or of deprivation of the possession of property, have been exercised upon the chiefs or common Indians of the “old settlers” or “treaty party,” since the arrival of the “Ross party” in the Cherokee country west, in 1838; and what means, if any, were in preparation by the Cherokee government, or any of the “Ross party,” to prevent or break up by violence the council proposed to be held by the “old settlers” and “treaty party,” at the mouth of the Illinois, on the 16th ultimo.

These and all kindred inquiries will be within the scope of your authority.

My first object is to endeavor to reconcile the two implacable portions of the same people—to make them friends—and, to this end, to inform myself of all that is necessary to the soundest judgment of the course that will best execute our intentions. If, however, reconciliation should prove impracticable, it will remain for the Government, upon the truth being known from your report, to adopt such measures, as circumstances, on the fullest consideration of them, shall seem to require, and to give such redress for any real wrong or oppression as the United States may lawfully grant.

On arriving in their country, you will immediately desire both parties to abstain from any movement calculated in the most remote degree to interfere with the beneficent designs of the Government, and to wait the decision that shall be made on your report.



If either of the parties concerned shall request you to investigate and report upon any other matter of importance, and properly pertaining to the object of this inquiry, you will proceed to do so in the same manner as if specially instructed.

In matters where your own knowledge and observations will enable you to speak with confidence, it is not necessary that you should take testimony; but, in relation to all other points of inquiry, you will seek information from proper and accessible sources, taking care that no unnecessary delay shall be interposed from any quarter. Any two of your number are authorized to proceed with the investigation, although it is expected that you will all be present if practicable; and as the information is wanted at the commencement of the approaching session of Congress, or as soon thereafter as practicable, it is enjoined upon you to proceed forthwith upon this service.

The investigation may be held at such place or places as will most expedite its progress, and afford security to those who may be required or feel it necessary to attend.

Very respectfully, your obedient servant, &c.

WILLIAM WILKINS,  
*Secretary of War.*

General R. JONES,  
Lientenant Colonel R. B. MASON, } *Commissioners, &c.*  
P. M. BUTLER, Esq., }

In order to the prompt execution of the foregoing instructions, the following letters were respectively addressed to Captain John Rogers, of the Cherokees claiming to represent the "old settlers;" to John Ross, Esq., Principal Chief of the Cherokee nation; and to P. M. Butler, Esq., United States Cherokee agent:

FORT GIBSON, CHEROKEE NATION, *November 16, 1844.*

SIR: In conformity with his promise heretofore communicated to you, the Secretary of War has, by authority of the President, instituted a commission to inquire on the spot, in the Cherokee nation, into certain matters of complaint and alleged grievances, &c., among the "old settlers" of the Cherokee Indians, and also into the conflicting allegations made to the Government by the respective parties into which that people is unfortunately divided; and, in order to the prompt execution of so much of the instructions of the Secretary of War, bearing date of October 18, 1844, as relate to the party complaining, of which you are considered the principal, the undersigned, United States commissioners, notify you accordingly, with the request that you will take prompt measures to cause the said party to be duly assembled at some convenient place in the Cherokee nation with as little delay as practicable.

The Commissioners request that they may be informed when and where the people of the Cherokee nation, whose complaints the Government require now to be investigated, will assemble; and you are also requested to inform the United States agent at this station the probable number of Indians that will be collected, in order that rations of corn and meat may be provided for their subsistence.

It is enjoined upon the Commission to express the expectation and desire of the Government that both parties will carefully abstain from any movement calculated in the most remote degree to interfere with the beneficent designs of the Government of the United States, and that they await the decision which will be made in due time.

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *United States*  
P. M. BUTLER, } *Commissioners.*

Captain JOHN ROGERS,  
*of the Cherokee Nation, Fort Smith.*

FORT GIBSON, CHEROKEE NATION, *November 16, 1844.*

SIR: The undersigned, United States Commissioners, deem it proper to inform you that the promised Commission to "inquire into and ascertain the true and exact extent of the discontent and spirit of hostility which prevail among your people," &c., has recently been instituted by the Secretary of War; and herewith you will receive, for your information, a copy of our letter of this date to Captain John Rogers, one of the complainants of the "old settlers," of the Cherokee nation.

It being the purpose of the Secretary of War and the precise object of the Commission to ascertain the real state of the facts which are alleged on either side, and contradicted on the other, by the opposing parties, by actual inquiry and examination on the spot, in the Cherokee nation, the Commissioners would suggest your meeting them on the ground, or that you adopt such other mode as you or "the national council" may deem proper, and which may enable them with equal certainty to learn the "real state of the facts."

It is enjoined upon the Commission to express the expectation and desire of the Government that both parties will carefully abstain from any movement calculated in the most remote degree to interfere with the beneficent designs of the Government of the United States, and that they await the decision which will be made in due time.

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *United States*  
P. M. BUTLER, } *Commissioners.*

JOHN ROSS, Esq.,  
*Principal Chief, Cherokee Nation, Park Hill.*

FORT GIBSON, CHEROKEE NATION, *November 16, 1844.*

SIR: The Commission herewith furnish you with copies of our letters of this date, respectively addressed to John Ross, Esq., Principal Chief of the Cherokee nation, and to Captain John Rogers, one of the "old settlers," requesting the latter to assemble at some convenient place the party complaining, with as little delay as practicable.

The Commission request that, as United States agent, you will please to take all proper measures to cause the assembling of the several parties whose complaints are now to be examined into by order of the President,

and according to the instructions of the Secretary of War of October 18, 1844, as soon as practicable.

I am, sir, very respectfully, your obedient servant,

R. JONES, *U. S. A.,*  
*Commissioner.*

P. M. BUTLER, Esq.,  
*United States Cherokee Agent.*

Lieutenant Charles S. Lovell was appointed the secretary to the Commission.

The Board adjourned, to meet on Monday, at 11 o'clock, A. M.

FORT GIBSON, NOVEMBER 18, 1844.

The Board met pursuant to adjournment, and, having taken all the preliminary steps deemed necessary for the prompt discharge of the duty assigned them, then adjourned, to meet from time to time, as might be necessary.

FORT GIBSON, NOVEMBER 23, 1844.

A communication having been yesterday received from John Ross, Esq., Principal Chief, (appended to this record, and marked "A,") in reply to the letter of the 16th, (see page 52,) the Board directed the following answer:

FORT GIBSON,  
*Cherokee Nation, November 23, 1844.*

SIR: Your letter of the 20th instant, acknowledging the receipt of the communication of the 16th, informing you of the institution of the special Commission, by the Secretary of War, "to inquire into and ascertain the true and exact extent of the discontent and spirit of hostility which prevail among the Cherokee people," &c., has been received.

The Commissioners think it most likely that they may, at some other time, avail themselves of your polite invitation to transfer the sitting of the Board to Tahlequah, where your national council is now in session; but, in the first instance, it is considered most proper to assemble and meet the parties complaining at some other place, in order that both the government and complainants may have no room to doubt the perfect freedom of their full attendance; and, while assembled, the absence of all restraint felt by any moral influence, imaginary or otherwise, which, by some, might possibly be ascribed to the circumstance of their being called together at the seat of your national government.

The communications of the 16th instant, sent to you by the Commission, and that of the Secretary of War, addressed to you and others of the Cherokee nation, dated July 8th, 1844, at page 49, furnish the general outline of the business which will engage the attention of the Commission; but the particulars and extent of the inquiry, of which you request to be informed, can be made known when we meet you on the ground, which we hope to do on the 4th proximo, near the mouth of Illinois river.

I am, sir, very respectfully, your obedient servant,

R. JONES,  
*United States Army, and Commissioner.*

JOHN ROSS, Esq.,  
*Principal Chief of the Cherokee Nation.*

FORT GIBSON, NOVEMBER 24, 1844.

The Board received to-day a communication from Captain John Rogers, of the "old settlers," (see Appendix, "B,") in reply to their letter of the 16th, (see page 51,) to which no answer was deemed necessary.

NOVEMBER 27, 1844.

The Board received this day a letter from Captain Rogers, dated 25th instant, (see Appendix, "C,") expressing his fears that certain men of his party would be arrested if they attended the meeting at the Illinois river on the 4th of December; and the following letters were respectively addressed to John Ross, Esq., Principal Chief, and Captain Rogers:

FORT GIBSON,

*Cherokee Nation, November 27, 1844.*

SIR: The undersigned, United States Commissioners, have learned that it is the intention of the Cherokee authorities to arrest certain men of the "complaining parties," that are to assemble on the 4th proximo, near the mouth of the Illinois river, for some alleged violation of law. Whilst we give no credit to this information, we are bound in our official capacity to notify the Cherokee authorities, through you, that we pledge the faith of the United States to guaranty full and effectual protection to every man of the "complaining parties," in their coming to, attending upon, and returning to their homes, from the meeting called by the authority of the United States Government, to be held near the mouth of the Illinois river, on the 4th of December next, in order "that they may have no room to doubt the perfect freedom of their full attendance, and, while assembled, the absence of all restraint felt by any moral influence, imaginary or otherwise."

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army,*

R. B. MASON, *Lt. Col. 1st Drag.,*

P. M. BUTLER,

} *United States  
Commissioners.*

P. S. It is not by any means the intention of this Commission to interfere with the administration of the Cherokee laws, but merely to guaranty to all those of the complaining parties the free and full assurance that they shall not be molested during their absence from home, upon the call of the United States Government, through the Commissioners.

R. J.

R. B. M.

P. M. B.

JOHN ROSS, Esq.,

*Principal Chief of the Cherokee Nation, Park Hill.*

FORT GIBSON,

*Cherokee Nation, November 27, 1844.*

SIR: We acknowledge the receipt of your letter of the 25th instant, and cannot more fully reply to it than by giving you a copy of our letter of this date to Mr. John Ross, Principal Chief of the Cherokees, by which you will see that the faith of the United States is pledged, and full protec-



tion guarantied to every man of the "complaining parties," in their coming to, attending upon, and returning to their homes from, the meeting called by the authority of the United States Government, near the mouth of the Illinois river, on the 4th of December next.

We are, very respectfully, your obedient servants,

R. JONES, U. S. A.,	} United States Commissioners.
R. B. MASON,	
P. M. BUTLER,	

Captain JOHN ROGERS,  
*of the Cherokee Nation, Fort Smith.*

NOVEMBER 29, 1844.

The Board received last evening a letter from Captain John Rogers and James Cary, dated 27th instant, (see Appendix, "D,") in which they decline attending the council to be held on the 4th proximo, near the mouth of the Illinois river, unless furnished with a guard for their protection in going to and returning from the council, and while there; to which the following reply was made:

FORT GIBSON,

*Cherokee Nation, November 29, 1844.*

SIR: Your letter of the 27th was received last evening. The Commissioners cannot think that either Mr. Carey or any other of your party will be in the least danger of molestation from the Cherokee authorities, or any of the party opposed to you, while coming to, attending upon, and returning from, the meeting called by authority of the Government; and we had hoped that the answer of the 27th instant to your previous letter on the same subject, (which could not have been received,) would have assured you of your safety. But, to put to rest your apprehensions upon this score, your wishes can be gratified; and accordingly a military guard will be in readiness at Fort Smith the morning of the 3d of December, to accompany you and Mr. Carey to Tahluntuskey, where the Indians are to assemble on the 4th.\*

We are, respectfully, your obedient servants,

R. JONES,	} United States Commissioners.
R. B. MASON,	
P. M. BUTLER,	

Captain JOHN ROGERS,  
*Of the Cherokee Nation, Fort Smith.*

DECEMBER 2, 1844.

The Board received, at 8 o'clock Saturday night, the 30th ultimo, two letters from John Ross, Esq., Principal Chief of the Cherokee nation, (see appendix "E" and "F,") to which the following reply was made:

\* A copy of this letter sent to John Ross, Esq., Principal Chief of the Cherokee nation, endorsed, "Respectfully furnished Mr. Ross, for his information."

## FORT GIBSON,

*Cherokee Nation, December 2, 1844.*

SIR: Your two communications, respectively dated the 29th and 30th ultimo, were received together at 8 o'clock Saturday night. We proceed to reply, in the order of their date.

We regret to notice that you have either wholly misinterpreted the intent and tenor of our communications, or that we have not been so fortunate as to convey to you the character of our instructions and principal object it is the purpose of the Government to effect.

In waiving your proposition to meet at Tahlequah, it was not so much our purpose to decline, altogether, a meeting at that place, as for the *present* to give the "complaining parties," for obvious reasons, the privilege of choosing the time and place for being heard.

We thought we had sufficiently indicated to you, in our letter of the 23d ultimo, that, at a subsequent period of the investigation, it might be both our duty and pleasure to accede to your invitation to meet at Tahlequah, where your national council is in session.

The benefit to be derived from the place of meeting, whether at Tahlequah or elsewhere, is yet a matter of opinion, and which future developments can only determine.

To so much of your letter as expresses dissent at a separate meeting of the parties complaining, "to the *exclusion* [alleged] of the parties of whom they complain"—"the allowing of testimony to be adduced *ex parte* against individuals and the nation"—we have to express both surprise and regret.

One so intelligent, and so long accustomed to official correspondence with the Government of the United States, as the Principal Chief of the Cherokee nation, should not, it is thought, have so misapprehended the clear and direct meaning of the language employed in any of our letters; nor can we for a moment believe him capable of intentionally perverting its true import. By reference to our communication of the 16th November, it will be seen that we expressly say: "The Commissioners would suggest *your meeting them on the ground*, or that you adopt such other mode as you or the national council may deem proper, and which may enable them with equal certainty to learn the real state of the facts." In accordance with this invitation, it was and is the intention and wish of the Commissioners that the dominant party of the Cherokee nation should be represented in a manner most agreeable to themselves, and respectful to the Cherokee authorities.

The object on our part is simply the truth; and, to elicit this, we expressed in our letter of the 23d *the hope that you would meet us on the ground*, on the 4th of December, near the mouth of the Illinois river; and that there may be no misapprehension on this head, (now within four days of the time appointed for the meeting of the parties, than there appears to have been on the 20th ultimo when you answered our communication of the 16th,) we repeat the invitation, and with it our wish that you will either attend in person or by deputation.

There seems also to be some exception on your part to the manner of calling this meeting, or rather, we should say, misapprehension as to the authority that calls it. The Commissioners by authority of the United States do not only *themselves* direct the parties to be assembled, as their letters of the 16th show, but also required the United States agent for the Cherokees to repeat the call in a more formal and public manner; which

he accordingly did in his proclamation dated 18th November, and which was published in the Cherokee Advocate of the 28th—copies having been previously printed in handbills and circulated through your nation.

To assume, because Mr. Rogers, as an individual, has, as you affirm, called, (he was instructed by this Commission to do so,) or been the cause of instigating this meeting, “in contempt of the authority of his government,” it would seem to be inferable that you think the United States Government ought not, or cannot, listen to or call together any of the Cherokee people, without the call is made by or through the Cherokee authorities. If this be so, the party complaining of oppression from the Cherokee government, however just or well grounded their complaints might be, never could be heard; and thus the benevolent designs of the President of the United States, in instituting this Commission, might be utterly frustrated.

The present object of the Government is essentially one of inquiry, in which it is not perceived that the rights or interest of your people can in the slightest degree be impaired or compromised. The question of individuality, or of a class, many or few, who may be complainants, cannot, it is thought, at all affect the result; nor, indeed, will the mode adopted by the Commissioners for obtaining the meeting, or the number in attendance, affect the truth of the questions of controversy or matters to be investigated.

In reply to your letter dated the 30th, we are gratified in the confirmation you give us of the views expressed in our letter of the 27th, by which it will be seen that we did not credit the information communicated of an intention on the part of the Cherokee authorities to arrest any of the complaining parties in attending the meeting, &c. Our letter guarantying protection to the complaining parties while coming to, returning from, and attendance on the Commissioners, by no means intended to include the persons against whom there may be strong grounds to believe are guilty of *arson* and *murder*; yet, to put at rest for the time being the fears of the complainants on the ground of apprehended arrests, it was and is our intention to assure them of their safety, except for such offences as are here indicated; nor is it believed that the Cherokee authorities would wish to exert their power at a time and under circumstances that might render them liable to the imputation of intentionally thwarting the beneficent objects of the Government, and the execution of the delicate duties which devolve upon the Commission, and in which the whole nation is so deeply interested.

To so much of your inquiry as expresses the wish to know the “exact course of proceeding which the Commissioners intend to adopt,” it is proper only to say, that the proceedings of the Board at Tahluntuskey will be conducted openly, in the presence of all—the complaining parties being first heard, and afterwards the dominant party, when the opportunity will be afforded to reply, and make such statement as the matters of charge alleged against the Cherokee authorities may require. And it is in this way that the Commissioners expect mainly to learn, on the spot, in the Cherokee nation, the “real state of the facts.”

With respect to your inquiry touching the attendance of the “whole Cherokee people,” and subsistence for them, we would remark, that, as regards the dominant party, the practical object of their attendance (as above indicated) being to hear and answer the allegations made by the complainants, it is believed that this could be best effected by the presence of the

Principal Chief (should he deem it advisable to attend) and such committee or delegation as the national council may deem proper to send.

If the question of subsisting your whole people be of any material consideration, either as regards the mode of attending or the objects to be effected, be assured we will go far to reach and attain them by all means in our power.

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *United States*  
P. M. BUTLER, } *Commissioners.*

JOHN ROSS, Esq.,

*Principal Chief of the Cherokee Nation.*

FORT GIBSON, .

*Cherokee Nation, December 3, 1844.*

SIR: In the limited time left us to reply to your letters of the 29th and 30th of November, we omitted, in our answer of yesterday's date, to mention the names of Captain *John Rogers* and Mr. *James Carey*, as the only individuals that we know of who come within the class of persons among the complaining parties to be exempted from arrest or molestation by the authorities of the Cherokee government or any of the dominant party.

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *United States*  
P. M. BUTLER, } *Commissioners.*

JOHN ROSS, Esq.,

*Principal Chief of the Cherokee Nation.*

TAHLUNTUSKEY, CHEROKEE NATION, NEAR THE MOUTH OF ILLINOIS RIVER,  
DECEMBER 5, 1844.

The Commissioners arrived on the ground the evening of the 4th, being the time and place appointed to meet the Cherokees.

The following public notice was posted in and about the camp:

TAHLUNTUSKEY, CHEROKEE NATION,

*Near the mouth of Illinois river, December 4, 1844.*

The United States Commissioners hereby announce their arrival at this place, in obedience to the instructions of the President, through the Secretary of War; and, on entering upon the duties assigned them, they think it proper to make known that all persons invited here by the call of the President are under the protection of the national flag, now flying at this place; and all parties are exhorted to abstain from any conduct in the least calculated to produce excitement, or disturb the peace and quiet of this assemblage. A cordial co-operation of all is invited to the aid of the Commissioners in discharging the important and delicate duties intrusted to them.

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *United States*  
P. M. BUTLER, *U. S. Agent*, } *Commissioners.*



THURSDAY, DECEMBER 5, 1844.

At one o'clock the Indians assembled, under an open arbor, where, being met by the Commissioners, the purpose of the Government in sending them into the nation was made known to them, by General Jones, as follows:

*Friends and Brothers:* We have but few words to speak to you. We come not to hold a Talk, but to listen to what you may have to say.

You know that complaints of alleged grievances among a portion of the Cherokee people have reached the ear of the President. He has been told that wrongs and oppressions have been practised upon the "old settlers" and the "treaty party," by that division of the nation which last crossed the Mississippi from the east; that the minority party "cannot enjoy their property, liberty, and lives, in safety," &c.

It has also been represented, that the act of union, by virtue of which the government of the "old settlers" was superseded, and they subjected to the constitution and laws of the party which now administer the government of the Cherokee nation, "was never sanctioned or authorized by their people; and that the Western Cherokees who signed the act of union did so not only without authority, but were induced to do it by promises and assurances which have never been realized."

On the other side, it is represented to the Government that the parties complaining "were enjoying under the act of union and their freely adopted constitution, property, liberty, and life, in as much security as the rest of the Cherokees, and were treated with the same indulgence;" and that these difficulties originated and are kept up by only "a few restless individuals, without any real cause for complaint," &c.

In conformity with his promise made to you in July last, the Secretary of War, by authority of the President, has instituted this Commission to inquire into these difficulties and disagreements among the Cherokees. And, for the purpose of ascertaining the real state of the facts alleged on either side, and denied on the other, we are here, on the spot, and now ready to listen to what each party may have to say.

What we may hear and see, and believe to be true, will be faithfully reported to the Government, without favor or partiality.

After these matters of complaint have been duly examined, if either of the parties concerned shall request other matter of importance, properly pertaining to the object of this inquiry, to be investigated and reported upon, the Commissioners would be authorized to consider it.

As friends of all, let us exhort you not to be unmindful of the beneficent design of the Government. In stating your alleged wrongs, and asserting or vindicating on either side what you believe to be your rights, let all your proceedings, here and elsewhere, be peaceful, calm, dignified; your words and conduct tempered with a Christian spirit, and marked by a generous bearing, each toward the other—by the strong as well as the weaker party; and remember that you are still the brethren of one nation, as we are all children of the One Great Spirit, who holds us accountable for our acts, as certainly as we are this day assembled together.

The Commissioners are ready to hear the "old settlers."

Captain Dutch, a Cherokee, in behalf of the "old settlers," replied in his native language: "We have heard the Commissioners, and will consider it, and be ready to report to-morrow." The Rev. Stephen Foreman and Mr. Joseph A. Foreman acted as interpreters.

Late in the evening of the 4th, a letter, dated December 3d, 1844, (see Appendix "G,") was received from John Ross, Esq., Principal Chief, informing the Commissioners that, under all the circumstances, he respectfully declined attending the Board at this place, and that the authorities of the nation did not deem it proper to appoint a deputation for that purpose.

After the meeting at one o'clock, William P. Ross, nephew of the Principal Chief, the Rev. Mr. Foreman, J. M. Payne, and Judge Daniel, Cherokees of the dominant party, and William Drew, requested an interview with the Commissioners, which being cheerfully acceded to, Mr. Ross and Mr. Foreman stated, that they came in their individual capacity merely as Cherokees, and that they desired the privilege of replying to or rebutting the statements that might be made by the complaining parties; Mr. Ross remarking, "we have come prepared and ready to discuss any subject that may be brought up." To this request they were answered, that the Commissioners were anxious to elicit the truth; that they had hoped that the Cherokee authorities would be represented here on the ground by deputation or otherwise; but that the letter then lying on the table, from the Principal Chief, apprized them that this would not be the case; that, under these circumstances, it was most proper that their wishes should be expressed in writing; that the Commissioners were desirous and determined, as far as might be in their power, to hear both sides, in order to ascertain the real state of the facts.

Mr. Ross also inquired how it would be with regard to subsistence for any of their party; to which he was answered, "make your application in writing, and we will reply to it." He was then asked by one of the Commissioners, "do we understand you as making the application for subsistence now?" to which he replied in the negative.

No application was received in writing, nor other verbal inquiry made, by either of the gentlemen named.

#### FRIDAY, DECEMBER 6.

Before the hour arrived for assembling this morning, the Board was waited upon by a deputation, proposing that the parties might be heard by their representatives, duly chosen; that such was the inclemency of the weather, (the snow being several inches deep, and then falling,) and the destitute condition of many of their people, and being without shelter, that it was their wish to return home. Concurring with the proposition, they were informed that the Commissioners agreed to the arrangement.

The names of all the Indians who had arrived on the ground were ordered to be enrolled, to ascertain numbers, and prevent deception, designating the parties and districts to which they respectively belonged.

#### SATURDAY, DECEMBER 7.

The enrolment of names continued until all were recorded. The result was as follows: "old settlers," 286; "treaty party," 179—total, 465.

The following list contains the names of the persons chosen to represent the parties, with the understanding that such as may hereafter arrive will enroll their names, and say whether they agree to be represented by the individuals now chosen.

## COMMITTEE.

*For old settlers.*

- 1 John Brown.
- 2 John Smith.
- 3 William Dutch.
- 4 Thomas L. Rogers.\*
- 5 Judge Wind.
- 6 John Harnage.
- 7 William L. Holt.
- 8 Samuel Williams.
- 9 Broken Canoe.\*
- 10 Aaron Hicks.
- 11 George Crapo.
- 12 Tax-tas-key.
- 13 Cabin Smith.
- 14 William Drew.
- 15 Samuel Chambers.
- 16 John Glass.
- 17 Lightningbug Bowles.
- 18 Deer Track.
- 19 Ellis Phillips.
- 20 John L. McCoy.
- 21 Bluford West.
- 22 Cold Weather.
- 23 The Crane.
- 24 Richard Rogers.

*For treaty party.*

- 1 James Starr.
- 2 Charles Reese.\*
- 3 S. B. Watie.
- 4 John Duncan.
- 5 Wrinklesides.\*
- 6 Ezekiel Starr.\*
- 7 Joseph Foreman.
- 8 John Fields.
- 9 John A. Bell.
- 10 John Huss.
- 11 Young Puppy.
- 12 Daniel C. McCoy.
- 13 James McNair.
- 14 Nicholas McNair.
- 15 David Foreman.
- 16 Joseph M. Lynch.
- 17 E. G. Smith.
- 18 Johnson Thompson.
- 19 Joseph Rogers.
- 20 George Blair.
- 21 John Sanders.
- 22 Brice Martin.
- 23 Ellis Harlen.
- 24 John West.

Those with this mark (\*) were members of the committee who signed the "act of union" in 1840. William Rogers, subsequently chosen to fill a vacancy, was also one of the signers of that act, and brother of Captain John Rogers, the ex-chief. William L. Rogers is his son, and both were considered headmen among the "old settlers."

The following letter was addressed to John Ross, Esq., Principal Chief:

TAHLUNTUSKEY, CHEROKEE NATION, *December 7, 1844.*

SIR: Having duly informed you, at the proper time, that the special Commission appointed by the Secretary of War would meet at this place on the 4th instant, we now deem it proper to apprise you that we shall adjourn in the course of the day, having decided to meet again on Tuesday the 10th, at the old Cherokee agency, on the road between Fort Gibson and Park Hill, there to resume the business to be transacted.

The Commissioners were not a little surprised to observe, the day after their arrival, the presence of several of your organized mounted and armed companies, usually called "police companies." The display of these companies, although harmless *here*, was too well calculated to inspire the fears of the parties called together by authority of the President; and, from what we see and believe, there is no doubt on our minds that, in coming from distant parts of the nation to this place on this occasion, this array of the Cherokee force has had a decided influence upon the minds of the complaining parties, and thereby a tendency to thwart the beneficent designs

of the President in instituting this Commission, by preventing many from obeying our call and attending here. We have therefore to express our decided disapprobation at the unexpected appearance of these companies at this place, their presence being entirely unnecessary and uncalled for.

At our meeting at the old agency, on the 10th, we shall expect to see nothing more of the "police companies," or hear of their being in our vicinity.

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *Commissioners.*  
P. M. BUTLER,

JOHN ROSS, Esq.

*Principal Chief of the Cherokee Nation.*

P. S. As we are not familiar with the routine of the departments of the Cherokee government, we have to request that the information contained in the foregoing letter may be communicated to the proper authorities, to prevent the appearance of the "police companies" at or in the vicinity of the agency, on the 10th instant, or during our session there, as the Commissioners can but construe such a procedure on the part of any portion of the Cherokee authorities as an indignity offered both to themselves and the Government of the United States.

R. J.,  
R. B. M., } *Commissioners.*  
P. M. B., }

On the arrival of the armed companies referred to in the above communication, the morning of the 5th, the Commissioners waited some time to learn the object of their presence; but, hearing nothing from them, the Rev. Mr. Foreman, (who came with them,) and Colonel Brown, the commandant of all the "police companies," were sent for, and asked the object, and by what authority the companies came here. Brown replied, the only object was the preservation of order, and to enforce the Cherokee law; that they came not by any particular order, but to see that the laws were enforced, which he said it was, under the law, his duty to do. They stated there were but few of the men armed, having left their guns some distance back.

Considering that the presence of the Cherokee force was exercising a very decided influence upon the minds of the complaining parties, and as little doubting that the moving to and fro of these "police companies," in different parts of the nation, all concentrating towards the place of meeting, would have a prejudicial influence, and deter many from attending here, it was thought proper to say to Mr. Foreman and Colonel Brown, that the Commissioners desired the "police companies" to withdraw from the ground before sunset, and not again appear upon it in their armed and organized manner; but that they should be glad to see them as individuals of the nation, and not as an organized body.

The Board adjourned at half past 12 o'clock, to meet again the 10th instant, at the old Cherokee agency, on the road between Fort Gibson and Park Hill, there to continue the business of investigation.



OLD AGENCY, CHEROKEE NATION, SEVEN MILES FROM FORT GIBSON, TUESDAY, DECEMBER 10, 1844.

The Board met, agreeably to adjournment.

The members of the respective committees appointed at Tahluntuskey by the "old settlers" and "treaty party" were not all on the ground, and no progress was made in their deliberations.

The names of the Cherokees who arrived at this place were ordered to be taken, in the same manner and for the same purpose as at Tahluntuskey. The number that appeared on the ground this day was, "old settlers," 53; "treaty party," 16—total, 69.

Just before leaving Fort Gibson for the agency, a letter was received from Mr. Ross, dated the 9th, (see Appendix "H,") to which the following answer was despatched about one o'clock:

OLD AGENCY, CHEROKEE NATION,

*December 10, 1844.*

SIR: Your letter of yesterday's date was received at Fort Gibson this morning, a few minutes before we were ready to mount our horses.

In deciding to meet at this place, the Commissioners by no means intended to change their determination, heretofore communicated to you, of holding their session at Tahlequah, in accordance with your invitation, at such time as they might deem most expedient, and which it is yet their intention to do. But, for the attainment of the objects of the Commission, we still think it best that the authorities or dominant party of the Cherokee nation should be represented here, in some form or other, in order that they might hear, reply, rebut, or explain, any matters of complaint, &c., made by the parties complaining.

It is not probable that the Commissioners will be able to enter into the investigation until day after to-morrow.

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army,*

R. B. MASON, *Lt. Col. 1st Drag.,* } *Commissioners.*

P. M. BUTLER,

WEDNESDAY, DECEMBER 11, 1844.

The committees were not yet organized. Taking of names continued. "Old settlers," 65; "treaty party," 60—total, 125.

THURSDAY, DECEMBER 12, 1844.

The committee still engaged in their deliberations. "Old settlers," 63; "treaty party," 28—total, 91, recorded.

This day the committee (of 12) appointed by the national council, in behalf of the Cherokee nation, to attend the investigation in progress, arrived on the ground, and were received by the Commissioners.

FRIDAY, DECEMBER 13, 1844.

Nothing yet received from the committees of the complaining parties. "Old settlers," 47; "treaty party," 32—total, 79.]

This day a communication (see Appendix "I") was received from the national committee, which was answered as follows :

OLD AGENCY, CHEROKEE NATION,

December 13, 1844.

GENTLEMEN : Your letter of this date, requesting "to be made acquainted with the character and objects of the Commission, and what proceedings have been had by you [us] relating to them," has been received ; and, in reply to the first part of your inquiry, we would refer you to our address made to the Cherokees at Tahluntuskey the 5th instant, a copy of which was furnished to John Ross, Esq., Principal Chief. Should you desire a copy, for the information of your committee, one can be furnished.

The "old settlers" have not yet been heard, nor has any further business been transacted with regard to the objects of the Commission, except the registry of the names of the persons belonging to the "old settlers" and "treaty parties," whom we have seen, with a view to ascertain numbers and the proper issue of rations.

For the information of your committee, the Commissioners deem it advisable to communicate the following extract of their letter, dated December 2, to John Ross, Esq., Principal Chief of the Cherokee nation :

"To so much of your inquiry as expresses the wish to know the 'exact course of proceeding which the Commissioners intend to adopt,' it is proper only to say, that the proceedings of the Board at Tahluntuskey [or elsewhere] will be conducted openly, in the presence of all ; the complaining parties being first heard, and afterwards the dominant party ; when the opportunity will be afforded to reply, and make such statement as the matters of charge alleged against the Cherokee authorities may require. And it is in this way that the Commissioners expect mainly to learn, on the spot, in the Cherokee nation, the 'real state of the facts.' "

To facilitate and expedite the business of the Commission, as well as for the better accommodation of the parties, after to-morrow, we shall adjourn to Fort Gibson (where of course we expect to see your committee) until the parties complaining shall have been heard, and afterwards, if it be desirable, we will adjourn to Tahlequah.

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *Commissioners.*  
P. M. BUTLER,

To JOHN LOONEY,  
J. VANN,  
AARON PRICE,  
YOUNG ELDERS,  
JOHN RILEY,  
DAVID VANN,  
MOSES PARRIS,  
DAVID CARTER,  
JOHN SPEARS,  
JAMES M. PAYNE,  
WILLIAM P. ROSS,

} *Committee of the Cherokee Nation.*

SATURDAY, DECEMBER 14, 1844.

The committees of the complaining parties still deliberating. "Old settlers," 23; "treaty party," 27—total, 50. The whole number recorded at this place is, "old settlers," 251; "treaty party," 163—total, 414.

The assembling of the Cherokees, under the calls directed by the Commissioners to be made, is considered as having terminated this day; and the whole number that have met the Commissioners, inclusive of this date, is, of the "old settlers," 537; of the "treaty party," 342—aggregate, 879.

To facilitate and expedite the business of the Commission, as well as for the better accommodation of the several deputations, the Board adjourned, to meet again at Fort Gibson, Monday, the 16th.

FORT GIBSON, CHEROKEE NATION, MONDAY, DECEMBER, 16, 1844.

The Board met, pursuant to adjournment.

The committees were still engaged in their deliberation, but informed the Commissioners that they would be ready to lay their statements before them at 10 o'clock A. M., to-morrow.

The following letter was addressed to Mr. John Brown, president of committee of "old settlers" and "treaty party," in answer to his communication dated "Old Agency, December 13, 1844." (See Appendix "K:")

FORT GIBSON, *December 16, 1844.*

SIR: The subject matter of your note of the 13th instant has engaged our attention, and will be duly attended to.

The "old settlers" and "treaty party," for obeying the call of the Commissioners, and attending upon them at Tahluntuskey or elsewhere, are, after returning to their homes, considered as free from molestation by the authorities, and as much under the protection of the United States, for having peaceably assembled and met the Commissioners, as they are or have been whilst at any of the places of meeting; but we cannot believe that the Cherokee authorities are so unmindful of the true interests of the whole nation as to molest any individual, merely for obeying a call of the Government of the United States, duly made through its regularly constituted agents.

We are, respectfully, your obedient servants,

R. JONES, <i>U. S. Army,</i>	} <i>Commissioners.</i>
R. B. MASON, <i>Lt. Col. 1st Drag.,</i>	
P. M. BUTLER,	

JOHN BROWN,

*President Committee of Old Settlers and Treaty Party.*

In consideration of the arrival of several Cherokees, who had been on the way to the old agency, it was agreed that the general meeting might be considered as continuing until the close of this day. Accordingly, the names of 17 "old settlers" and 29 of the "treaty party" were added to the number already taken, which increased the aggregate to 925.

The registry lists having been examined and scrutinized by the Commissioners, jointly with the respective committees of each party, *eight* names were stricken out of the list of "old settlers" and *nine* from that of

the "treaty party," leaving the numbers, when thus purged, of "old settlers," 546; "treaty party," 362—total, 908.

Lieutenant *G. W. Lay*, 6th infantry, was appointed secretary to the commission, in place of Lieutenant *Lovell*, relieved on account of indisposition.

FORT GIBSON, CHEROKEE NATION, DECEMBER 17, 1844.

*Minutes of the proceedings of the Board of Commissioners, in their investigation of the complaints of the "old settlers, or Western Cherokees," and "treaty party," of the Cherokee nation, at this place.*

The committee chosen at Tahluntuskey, by the "old settlers," to represent them in the matters of complaint to be examined into, this day submitted a statement in writing, marked "L," (Appendix,) being the exhibit, in their own way, of the alleged wrongs and oppressions practised upon them by the Cherokee authorities and dominant party. The statement was accompanied with a printed memorial, dated April 16, 1842, signed by John Rogers and others, and a "memorial," being Document No. 235, H. R., 1st session 28th Congress, April 16, 1842.

The written statement was read in presence of the parties, including the deputation sent by the Cherokee authorities, when the Board again explained the nature and scope of the investigation with which they are charged, and declared their intention to confine the inquiry to subjects set forth in the instructions of the Secretary of War, and as announced to the Cherokees when assembled at Tahluntuskey, the 4th instant.

The subjects of inquiry having been considered, the "act of union" between the "Western" and "Eastern" Cherokees was the first in order. It having been represented to the Government, "by the 'old settlers,' [*i. e.*, Western Cherokees,] that the act of union, by virtue of which their government was superseded, and they subjected to the constitution and laws of the 'Ross party,' never was authorized or sanctioned by their people; and that the Western Cherokees who signed it not only did so without authority, but were induced to do it by promises and assurances which have never been realized."—(*Extract from letter of instructions, October 18.*)

For the record of the *proceedings* of the Board, during the investigation of the matters to be examined and inquired into, see the separate journal.

WEDNESDAY, DECEMBER 18, 1844.

Investigation respecting the "act of union" of 1840 continued.

The following answer was sent to Messrs. *John Looney* and others, of the committee of the Cherokee nation, acknowledging their communication dated "December 14, 1844." (See Appendix "M.")

FORT GIBSON,

*Cherokee Nation, December 18, 1844.*

GENTLEMEN: Your communication of the 14th instant, protesting in behalf of the Cherokee government against the right of the President to institute the Commission under which we are now acting, and also against the execution of the same, was received the day before yesterday.



The question cannot be entertained here. The Commissioners believe that it was duly considered and decided by the Executive before this Commission was instituted.

It seems not a little strange, that a community of Cherokees, transferred from the east by the United States, to join another west of the Mississippi, with the guaranty of *protection* to the nation from "domestic strife," should now, as one people, deny the right of the Government to inquire into the truth of alleged "grievous oppressions" practised upon one portion of the people, "insomuch that they cannot enjoy their liberty, lives, and property, in safety," as alleged—an inquiry to ascertain if there be any *real* wrong or oppression, and which might lead to "domestic strife;" an inquiry instituted for humane and beneficent purposes, the hope of reconciliation and the prevention of "domestic strife."

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *Commissioners.*  
P. M. BUTLER,

Messrs. JOHN LOONEY, AARON PRICE, JOHN RILEY, YOUNG ELDER, DAVID VANN, MOSES PARRIS, J. VANN, JAMES M. PAYNE, WILLIAM P. ROSS, STEPHEN FOREMAN, JOHN SPEARS, DAVID CARTER,	}	<i>Committee of the Cherokee Nation.</i>
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THURSDAY, DECEMBER 19, 1844.

Investigation continued, the same as yesterday.

The committee of the Cherokee nation, having yesterday taken their leave, did not again appear.

The following letter was addressed to John Ross, Esq., Principal Chief of the Cherokee nation, on the subject of a complaint formally made by the committee of "old settlers," respecting Captain *Dutch*:

FORT GIBSON, *December 19, 1844.*

SIR: We regret to learn that one of the armed Cherokee "police companies," commanded by Johnson Foreman, on Sunday evening, the 8th instant, after leaving Tahluntuskey, surrounded the house of *William Dutch*, one of the "old settlers," and one of the committee appointed, at Tahluntuskey, to represent them before the United States Commissioners; that they made threats against him, and closely searched his house and out buildings, &c.

Such proceedings are but too well calculated to excite fears in the minds of the "old settlers" and "treaty party," as to the intentions of the Cherokee authorities towards them, after their return to their homes.

On our arrival in the nation, we communicated to you so much of our

instructions as directed us "on arriving in their country, you [we] will immediately desire both parties to abstain from any movement calculated in the *most remote degree to interfere* with the beneficent designs of the Government, and to *await the decision* that shall be made in due time."

This, with the pledge of protection promised these people, also communicated to you, we hoped would have prevented any occurrence of the kind now noticed. The "old settlers" and "treaty party," for obeying the call of the Commissioners, and attending upon them at Tahluntuskey, or elsewhere, are, *after* returning to their homes, considered as free from molestation by the Cherokee authorities, and as much under the protection of the United States, for having peaceably assembled and met the Commissioners, as they are, or have been, whilst at any of the places of meeting. We sincerely hope that the Cherokee government will not be so unmindful of the true interests of the whole nation as to molest any individual merely for obeying a call of the Government of the United States, duly made through its regularly constituted agents; and we have therefore to request that you will give such assurance and such instructions as will quiet the fears of the "old settlers" and "treaty party" upon this point, and thus prevent any of them from being disturbed for such cause.

We shall be pleased to receive an early reply to this communication, in order that it may be forwarded, together with a copy of this, to the Secretary of War.

We are, respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *Commissioners.*  
P. M. BUTLER,

JOHN ROSS, Esq.,

*Principal Chief of the Cherokees, Park Hill.*

[For Mr. Ross's reply, with accompanying papers, Nos. 1 and 2, see Appendix "P."]

### *Letter of Complaint.*

"OLD AGENCY, CHEROKEE NATION,

"December 13, 1844.

"GENTLEMEN: We most respectfully bring under your notice an outrage committed by a company of armed police attached to Mr. Ross's government, upon Mr. William Dutch, one of the committee of 'old settlers.'

"This party of police, commanded by Johnson Foreman, on last Sunday evening surrounded Mr. Dutch's house, and, searching the house and out buildings closely, declared their intention was to have scalped Dutch if they had caught him. He escaped by accident—Lightningbug Bowles providentially overtook the police about half a mile from Dutch's house, and, passing them, went on to where Dutch was, about four (4) miles from home, and gave him timely information.

"We most respectfully intimate to the honorable Commissioners, that *our people* understand the *protection* of the United States Government to extend to their homesteads as well as covering them on the *council ground*, while immediately under the United States flag.

"If we are in error in thus understanding the protection extended to us

we beg most respectfully that the honorable Commissioners will inform us in time for us to provide for the emergency in such manner as self-preservation and common prudence may dictate.

"With the greatest respect, we are, gentlemen, your most obedient servant,

"JOHN BROWN,

*"Pres. Com. of complaining parties of old settlers and treaty.*

"Hon. Gen. R. JONES,

Col. R. B. MASON,

Gov. P. M. BUTLER,

} *Commissioners."*

FRIDAY, DECEMBER 20, 1844.

Investigation continued.

SATURDAY, DECEMBER 21, 1844.

The formal investigation of the complaints of the "old settlers" having terminated, they were so informed, with the understanding, if required, they would again be called.

The committee representing the "*treaty party*," having been notified to attend, appeared, when the explanation heretofore made, of the nature and scope of the inquiry, was repeated.

The committee then submitted to the Board a written statement of alleged wrongs and oppressions, (see Appendix "O,") accompanied by a "memorial," being Document No. 234, H. R., 28th Congress, 1st session, April 13, 1844.

MONDAY, DECEMBER 23, 1844.

The Board went into the formal investigation of the complaints of the "*treaty party*." (See minutes of the proceedings, page 26.)

TUESDAY, DECEMBER 24, 1844.

The committees appointed to represent the "Western Cherokees" and "*treaty party*" were summoned to attend this morning, when General Jones made the following remarks :

The Commissioners have heard all that they understand you wish to say respecting the matters to be inquired into in the Cherokee nation, with which they have been charged by the Secretary of War, and you are now informed that their business with you terminates this day. The Commission propose to meet at Tahlequah, Friday the 27th, for the purpose of making necessary inquiry there of the Cherokee authorities, as you know we have heretofore informed you that justice and a correct knowledge of the real state of facts would require that both sides should be heard.

We think it proper that some of you should be present; and, as the representatives of the parties complaining, we recommend that you appoint, from among yourselves, deputations of six or eight, to be with us at Tahlequah.

Your written complaint, received a few days since, of the searching of Captain *Dutch's* home, and the threat to scalp him by one of the "police companies," the evening after the adjournment of the council at Tahluntuskey, has been inquired into, and we are glad to inform you that very satisfactory explanations have been received from the Principal Chief, which show that in this instance the grounds of complaint and alarm are more imaginary than real.

In giving the complainants the assurance of their safety from apprehended molestation by the Cherokee authorities, on account of their attending the meetings called by the Commissioners, (which Mr. Ross confidently informs us will be the case,) it may be well again to remark, at the moment of parting with you, that the protection guarantied in behalf of the United States cannot embrace any time or cover any offence or circumstance not connected with the Commission in the Cherokee nation. On returning to your homes, we hope you will impress upon the minds of all your people the high importance of strict obedience to the laws of the nation. In taking leave of you, as friends of the Cherokee people, let us once more exhort you not to be unmindful of the beneficent intentions of the President, in sending this Commission into the nation, to inquire into your difficulties and complaints.

Let our parting voice be heard in the words of the friendly admonition which first reached your ear when we met at Tahluntuskey. We exhort you now, as then, to be peaceful, calm, friendly. Let your words and conduct be tempered with a Christian spirit, and marked by a generous bearing each toward the other, by the strong as well as the weaker party; and remember that you are still the brethren of *one nation*, as we are all children of the One Great Spirit, to whom we are accountable for our acts, as certainly as we are here assembled together this day.

We wish you a safe return to your friends and families.

The following letter was addressed to John Ross, Esq., Principal Chief, in reply to his communication of December 23, 1844, (see Appendix, P:)

FORT GIBSON,

*Cherokee Nation, December 24, 1844.*

SIR: Your letter of the 23d, with copies of the reports of the officers of the "Cherokee police," relative to the alleged molestation of *William Dutch's* premises, one of the "old settlers" who attended the meeting at Tahluntuskey, in reply to our communication of the 18th, has been received.

The statement made by Colonel Brown, as to the specific purposes of the movement of the troop immediately after the Cherokees dispersed on the 7th, and that of Captain Foreman, (the commander,) of what occurred on his halting at Dutch's house the next day, as well as the confident assurance you give, in saying "that no person will be molested for merely attending the councils called by you," (the Commissioners,) are entirely satisfactory, and we trust we shall hear nothing more on the subject.

You have been misinformed as to the satisfactory explanation said to have been made by Dutch himself; it was the tenor of his answers as interpreted to two of the Commissioners by Mr. Foreman, (which, how-



cer, were not explicit,) that induced us to write to you on the subject, though the formal complaint was made by the committee.

On turning to our letters, no expression will be found which implies, nor can it be deduced from the context, that the Commissioners meant to place any of your people "above the laws of their country, and secure to them impunity for their violation." Far from it. But we intend to be explicit. We wish it to be distinctly understood, that the act of attending the meeting called by the Commissioners, or in pursuance of their orders, and all proceedings on the ground in connexion therewith, including the taking of names, which was our act, for our information, must not be construed by the Cherokee authorities as any "infraction of the laws of the Cherokee nation."

The parties complaining, who have been before the Commissioners at this place since the 16th instant, have been permitted to return to their respective homes; not, however, without repeating our friendly advice, to let their conduct every where be tempered with a Christian spirit, and marked by a generous bearing towards all their brethren. They were desired to impress upon the minds of their people the importance of a strict obedience to the laws of the Cherokee nation, &c.

We propose to adjourn to Tablequah on Thursday or Friday, and there meet the Cherokee authorities, in continuation of the business of our inquiry.

We are, respectfully, your obedient servants,

R. JONES, U. S. Army,  
R. B. MASON, Lt. Col. 1st Drag., } Commissioners.  
P. M. BUTLER,

JOHN ROSS, Esq.,

*Principal Chief, Park Hill, Cherokee Nation.*

The following letter was addressed to Mr. John Brown, president of the committee of "Western Cherokees," in answer to his communication of this date, (see Appendix "Q:")

FORT GIBSON,

*Cherokee Nation, December 24, 1844.*

SIR: Your letter of this date, requesting to be informed "in what manner we [you] shall be protected by the United States Government in our homesteads, and to whom we shall *apply for that protection*, if molested by the dominant party in power in the Cherokee nation?" has been received; and, in reply, we refer you to the letter of the Secretary of War to Captain John Rogers, dated July 17, 1844, which points out the proper course to be pursued in case of need; which is, application "for relief and protection to P. M. Butler, Esq., the Cherokee agent, whose general powers, combined with those vested in the military authorities upon the frontier, will be competent to prevent or suppress" any molestation, on account of your attending the meetings called by the Commissioners, in pursuance of their orders, and for all proceedings in connexion therewith, including the taking of names, which was our act, for our information.

In communicating to you this morning, and to the deputations of the "old settlers" and "treaty party," the satisfactory account received last evening from Mr. Ross, respecting the reported molestation of Captain Dutch's premises by Captain Foreman's "police company," which turns

out not to be true, we took occasion to remind you all, in the clearest manner, that the "protection" of the Government, which has been guaranteed to those of the Cherokee people who have met the Commissioners in the nation, does not, of course, imply impunity for any offence, nor extend to any time or circumstance not connected with the transaction and business of the special Commission. We also stated to you, and to the deputations, to-day, our satisfaction in receiving the assurances of the Principal Chief, "that no person will be molested for merely attending the councils called by you;" i. e., the Commissioners. This we now have no reason to doubt; and, in returning to your homes, we trust that you will impress upon the minds of the people the importance of a strict obedience to the laws of the nation. Exhort them, as we have already advised them all, not to be unmindful of the beneficent purposes of the Government, which they will best evince by their peaceful and orderly deportment, at home and elsewhere.

Wishing each and all of you a happy return to your families and friends, we are, respectfully, yours,

R. JONES, *U. S. Army*,  
 R. B. MASON, *Lt. Col. 1st Drag.*, } *Commissioners.*  
 P. M. BUTLER,

Mr. JOHN BROWN,  
*President of Committee of Western Cherokees.*

The committees, not wishing to proceed to Tahlequah, addressed the following letter to the Commissioners:

FORT GIBSON,

*Cherokee Nation, December 24, 1844.*

GENTLEMEN: We have listened to your farewell address, closing your mission, so far as we are concerned.

Your good wishes for our welfare we feel grateful for.

Your courteous offer, that some two or three of our body should accompany you on your intended visit to Tahlequah, we beg respectfully to decline.

We are fully aware of the kindness of your intentions in extending to us the invitation; but, feeling perfectly satisfied with the *fair, open*; and candid manner in which the investigation of our grievances and complaints has been conducted by the honorable Board, we are satisfied that nothing *can be done* by the honorable Commissioners but what will be fair, and strictly just to all the parties concerned.

The committee take this opportunity of expressing their thanks to the Hon. R. Jones, Colonel R. B. Mason, Governor P. M. Butler, United States Commissioners, for their courteous and kind treatment of the undersigned committee of "old settlers" while attending this council.

Wishing that the Great Spirit, the essence of *light and truth*, may have and keep you in his care, we remain your friends,

JOHN BROWN,  
*President of Committee.*

R. JONES, *U. S. Army*,  
 R. B. MASON, *Lt. Col. 1st Drag.*, } *Commissioners.*  
 P. M. BUTLER,

The Board adjourned, to meet at Tahlequah, 18 miles from Fort Gibson, December 27th.

TAHLEQUAH, DECEMBER 27, 1844.

The Board met, pursuant to adjournment.

The Commissioners were met by the Principal Chief and Executive Council of the Cherokee nation, in the court-house, which had been provided for their reception.

In the absence of General Jones, detained at Fort Gibson, Colonel Mason announced the object of the Commission in meeting at this place.

No deputation from either of the complaining parties appeared.

The authorities were requested to read the written statements of the complainants, and their answers to certain questions brought forward in the general examination of alleged wrongs and oppressions, and to submit in writing whatever they might have to say.

SATURDAY, DECEMBER 28, 1844.

General Jones joined the Board.

The business with the Cherokee authorities continued.

MONDAY, DECEMBER 30, 1844 ; and TUESDAY, DECEMBER 31, 1844.

The investigation with the Cherokee authorities continued, the Commissioners occasionally occupied in making informal inquiries of individuals, as opportunity would offer, and the inspection of the records, &c.

The following letters were despatched, (see Appendix "S:")

TAHLEQUAH, CHEROKEE NATION, *December 31, 1844.*

SIR : The communications signed by the "widows, orphans, and representatives of the late *Major Ridge* and *John Ridge*," and also by S. Watie and John A. Watie, "in behalf of the heirs and representatives of *Elias Boudinot*," Cherokees, dated Van Buren, Arkansas, December 22, 1844, forwarded to the Commissioners under cover of your note of the same date, was received the 27th instant, and I respectfully enclose, under cover to you, our answer, which the Commissioners will thank you to cause to be duly presented.

I am, very respectfully, your obedient servant,

R. JONES,

*U. S. A., and Commissioner.*

Judge PASCHAL,

*Van Buren, Arkansas.*

TAHLEQUAH, CHEROKEE NATION, *December 31, 1844.*

FRIENDS : The undersigned, United States Commissioners, sent into the Cherokee country to inquire into the complaints and difficulties of the "old settlers" and "treaty party" of the Cherokee people, acknowledge the receipt of your communication, dated "Van Buren, Arkansas, December 22, 1844."

In prosecuting the business of the Commission, we have met in council

360 of the "treaty party," and their committee of 24 to represent their alleged grievances and matters of complaint. Their written and oral statements have been duly received; and it is supposed they embrace subjects and cases of the whole party, properly within the scope of this Commission, and even beyond the sphere of its jurisdiction. Your separate paper in part, if not altogether, dwells upon topics of kindred import.

With regard to the sad events that occurred in June, 1839, and which have cast so deep a gloom over your mourning families, you have naturally dwelt, and expressed your views, more in detail. In referring to the same events, the committee say: "*It is well known, from the correspondence and documents in the War Department, that on the 22d of June, 1839, Major Ridge, John Ridge, and E. Boudinot, were murdered by the Ross party, contrary to the established laws of the "old settlers" then in existence.*" With respect to so much of your communication as refers to the "*per capita*," or division of funds among all the people, as stipulated by the treaty of 1835-'36, we would remark, that the committee of the "treaty party" submitted, relative thereto, their memorial to Congress, presented in April, 1844, being Document No. 234, H. R., 28th Congress, 1st session.

The undersigned, having given respectful consideration to your paper, believe that the subjects of complaint therein treated are, for the most part, beyond the competency or range of this Commission; but they will cheerfully lay it before the Secretary of War, as a separate statement of your complaints, being of a special nature, and an "appeal to the President."

We are, very respectfully, your obedient servants,

R. JONES, *U. S. Army*,  
R. B. MASON, *Lt. Col. 1st Drag.*, } *Commissioners.*  
P. M. BUTLER,

Mrs. SUSANNAH RIDGE,  
WALTER RIDGE, } *Representatives of Major Ridge;*  
Mrs. SARAH PASCHAL,

Mrs. SARAH B. N. RIDGE,  
CLARINDA RIDGE, } *Administratrix, widow, and children, of*  
JOHN R. RIDGE, } *John Ridge;*  
SUSAN C. RIDGE,  
HERMAN D. RIDGE,  
ÆNEAS RIDGE,  
ANDREW J. RIDGE,  
FLOBA C. RIDGE,

S. WATIE, } *In behalf of D. S. Boudinot, Susan E. Boudinot,*  
JOHN A. WATIE, } *Mary Boudinot, William P. Boudinot, Sarah P.*  
} *Boudinot, heirs and representatives of Elias Boudinot—*

*Van Buren, Arkansas.*

FRIDAY, JANUARY 3, 1845.

The Board examined certain Cherokees who were members of the committees that signed the "act of union" of June 26, 1840, at Fort Gibson,



relative to the mode of procedure, and the manifestation of general satisfaction, by the parties present, *after* it was signed.

SATURDAY, JANUARY 4, 1845.

The Board were occupied in the examination and inspection of original documents, relative to the "act of union" of 1839, and other matters.

Governor Butler absent, engaged with the commission appointed to make a treaty with the Creeks and Seminoles.

The answers and statement of the Cherokee authorities not being ready, the Commissioners returned to Fort Gibson.

FORT GIBSON, MONDAY, JANUARY 6, 1845.

Captain John Rogers, formerly a chief of the "Western Cherokees," and now regarded as the head of the complainants, was again interrogated. (See minutes of the proceedings, page 33.)

TAHLEQUAH, TUESDAY, JANUARY 7, 1845.

Colonel Mason and Governor Butler returned, and resumed the investigation at this place; General Jones remaining at Fort Gibson, on business connected with the Commission.

TAHLEQUAH, WEDNESDAY, JANUARY 8, 1845.

Statements and answers of the Cherokee authorities not yet ready.

At the request of the Board, Mr. *Joseph Vann*, known as an "old settler," made a statement of his knowledge of certain matters pertaining to the investigation, (for which statement, see Appendix, "T.") Mr. Vann, although now of the dominant party, was the candidate of the "Western Cherokees" in 1843, in opposition to Mr. Ross, for the office of Principal Chief.

Further information being required respecting the "salines," General Jones, at Fort Gibson, addressed the following letter to Captain *N. Boone*, 1st dragoons:

FORT GIBSON, *January 8, 1845.*

SIR: You will repair, without unnecessary delay, to the two salines formerly occupied by *Captain John Rogers* and *Bluford West*, for the purpose of making such examination of the premises as may enable you to estimate and report to the Commissioners the value of the improvements at each saline, about the time that they were dispossessed of the premises in 1844, under the provisions of the Cherokee laws relative to the reservation of salines as national property. You will please to make your report so as to make your estimate of valuation under separate heads, as follows:

*I. Improvements of the farm, as—*

1. Dwelling house and out houses.
2. Clearing wood land.
3. Fencing of fields.
4. Breaking up prairie land.
5. Digging and walling fresh-water wells.

## II. *Improvements and materials necessary for erecting and carrying on salt works, as—*

1. Troughs or cisterns for holding water.
2. Digging and walling the furnaces.
3. Sheds over furnaces.
4. The salt kettles.
5. Wagons, &c.
6. Necessary buildings attached to the salt establishments.
7. The digging and boring for water, if not a natural saline.
8. Pipes for conveying the same.

Take special care to ascertain whether either saline reservation be natural or artificial; and, if the latter, whether without the obtaining of water by the process of boring by private enterprise, (late occupants,) the saline could in equity have been claimed as a national reservation under the Cherokee laws.

You will also please to report whether Mr. West's premises have been taken possession of by the Cherokee authorities, or whether they be still occupied by himself or his family; and if so, ascertain the reason.

Please let your report be submitted with as little delay as possible.

I think it expedient a second officer should accompany you, and have accordingly directed Lieutenant Kirkham to report to you.

I am, sir, very respectfully, your obedient servant,

R. JONES, *U. S. A.*,

*Commissioner.*

Captain N. Boone, 1st *Dragoons*.

Captain *Boone*, of the 1st dragoons, being prevented by sudden sickness from proceeding to execute the above instructions, Captain *S. Woods*, 6th infantry, was substituted. For his very satisfactory report, see Appendix, "U," paper No. 5, relative to "salines."

TAHLEQUAH, FRIDAY, JANUARY 10, 1845.

The answers to the questions put to the Cherokee authorities were this day submitted, with accompanying correspondence and documents; (for which, see Appendix, "U," containing papers numbered and lettered as follows: letters from 1 to 9 inclusive, and documents A, B, D, E, F, and G.)

The Board returned to Fort Gibson, Saturday, January 11, and in the evening were engaged in the business of the Commission.

MONDAY, JANUARY 13, 1845.

The Commissioners employed, from day to day, in examining their proceedings, papers, &c., and in preparing the report.

FRIDAY, JANUARY 17, 1845.

The Commissioners having fully considered and examined all the subjects of complaint made known to them, and sought information from all accessible sources, after due deliberation, made their report to the Secretary of War, which was this day concluded.

For the recorded *minutes* of the investigation held at Fort Gibson and Tahlequah, see the document marked No. 1.

The following letters were addressed :

FORT GIBSON, C. N., *January 17, 1845.*

SIR : I have the honor herewith to enclose you a communication, being a separate complaint from the representatives and families of *Major Ridge, John Ridge, and E. Boudinot*, understood to be resident in the State of Arkansas, with a copy of the Commissioners' reply thereto.

In compliance with the promise made to the parties, as you will find from the correspondence, I lay their paper before you, as a separate statement of grievances of a special nature, and "an appeal to the President."

I am, sir, very respectfully, your obedient servant,

R. JONES, *Adjutant General  
and Commissioner.*

HON. WILLIAM WILKINS, *Secretary of War.*

FORT GIBSON, C. N., *January 17, 1845.*

SIR : I have the honor, herewith, to forward the report of the special Commission appointed to inquire into the complaints and difficulties in the Cherokee country, which will be presented to you by Lieutenant *Lay*, of the army, the secretary of the board, the officer charged with this service.

Accompanying the report will be found the *journal* (of 53 pages) of the proceedings of the Commission, marked No. 2, which is an exact record of all that occurred or came under the notice of the Commissioners, in the execution of the trust confided to them; also, the *minutes* of the investigation, (of 57 pages,) marked No. 1, in which the examinations made, touching the matters of inquiry, are recorded in detail, in a manner which it is hoped may be satisfactory to the department.

With each document will be found a separate Appendix, with a single series of indices applied to both, marked from "A" to V," inclusive. The paper "S" has been withdrawn from the file, to be separately laid before the department with a letter.

I shall proceed to-day to Fort Smith; thence, without delay, to New Orleans; and, after remaining a few days to inspect the military posts in its vicinity, pursue my journey to Washington.

I am happy to inform you that every thing is tranquil in the Cherokee nation, and I have no reason to doubt will continue so, in the hope and expectation of the people that something will quickly be done by the Government to settle the vexed subjects which have been so long agitated. One thing I deem to be important—that the parties complaining should at once be made to understand, in the most decisive manner, that the *idea of a separation* of the Cherokee people will *not* be countenanced or tolerated by the Government.

For any information touching the Cherokee affairs, or connected with our proceedings, I beg leave to refer you to Lieutenant *Lay*.

I have the honor to be, with great respect, your obedient servant,

R. JONES,  
*Adjutant General.*

HON. WILLIAM WILKINS, *Secretary of War.*

P. S. I beg leave, respectfully, to call the attention of the department to the paper marked "V," Appendix, being the report of Captain Cady, who was specially instructed to examine the Cherokee laws, with a view to criticism. His views are fully concurred in.

FORT GIBSON, *January 17, 1845.*

SIR: I commit, herewith, to your charge, the report of the special Commission ordered to investigate the complaints and difficulties in the Cherokee country, with the accompanying documents and papers, which you will deliver in person to the Secretary of War, with as little delay as practicable. You will proceed to New Orleans, and thence to Washington; that being at this time the most expeditious route.

You will remain at Washington until after my arrival there, unless otherwise directed by the Major General commanding the army.

I am, sir, very respectfully, your obedient servant,

R. JONES,  
*Adjutant General.*

Lieut. G. W. LAY, *6th Infantry,*  
*Secretary to the Commission.*

The board adjourned *sine die.*

FORT GIBSON, CHEROKEE NATION,  
*January 17, 1845.*

Respectfully submitted to the Secretary of War.

ROGER JONES,  
*Adj. Gen. U. S. A., and Commissioner.*

GEORGE W. LAY, *U. S. A.,*  
*Secretary of the Commission.*

FORT GIBSON, C. N., *January 17, 1845.*

SIR: I have the honor, herewith, to enclose you a communication, being a separate complaint from the representatives and families of *Major Ridge*, *John Ridge*, and *E. Boudinot*, understood to be resident in the State of Arkansas, with a copy of the Commissioners' reply thereto.

In compliance with the promise made to the parties, as you will find from the correspondence, I lay their paper before you, as a separate statement of grievances of a special nature, and "an appeal to the President."

I am, sir, very respectfully, your obedient servant,

R. JONES,  
*Adjutant General and Commissioner.*

Hop. WILLIAM WILKINS,  
*Secretary of War.*

VAN BUREN, ARK., *December 22, 1844.*

GENTLEMEN: The undersigned, the widows, orphans, and representatives, of the late *Major Ridge* and *John Ridge*, have heard of your arrival in this country, to investigate the complaints and grievances of the Cherokees, and to report the same to the Government of the United States.

Presuming, from general rumor, that such is the object of your mission, we venture, with great respect, to lay before you something of the peculiar case of the family of the *Ridges* and *Boudinot*. This is not a case which can be remedied by affording relief to the party to which they belonged. Their complaints are the complaints of bereaved widows and orphans, the



blood of whose consorts, parents, and grand parents, lies unavenged at the doors of those who have governed the destinies of the Cherokee Indians and of the United States for the last few years. We speak thus boldly, because we know that the moral sense of the good people of this age, and of ages to come, will bear us out in the use of strong and positive language.

We trust that it is useless for us to tell you who Major Ridge, John Ridge, and Elias Boudinot, were. The former is known to have thrown his body into the hottest of battle in defence of the United States. And they all yielded to a necessity which they had no agency in producing, and, after their dearly beloved country could no longer be called their own, in 1833, they became the leaders of a party favorable to the emigration of their whole people. It is needless for us to enumerate what they suffered, and to what insults they were subjected, from their own deluded and infatuated people, during this struggle for a policy forced upon them by the United States. We hope that we need not say that they acted conscientiously. We have the fullest authority for saying that they expected no less than the martyrdom (and from the minions of the same power) which befel them on the 22d June, 1839. We have the assurances which the conscientious husband and the fond father gives when undertaking any great and solemn duty, for the faithful discharge of which he is ready to sacrifice his life. But they did not expect, that, when they threw themselves into the breach, and thus accomplished a great purpose for the powerful Government of the United States, that their widows and orphans would be left to the pity of a cold world, and denied the pittance promised them by the treaty, sealed with the blood of their sires. Does the history of the facts warrant this strong language? Let us examine.

To induce our friends and relatives to become the advocates of a treaty, repeated *written assurances* were given that they should receive the protection of the United States. Equal rights were guarantied to them, and they were promised a *per capita* sum of money, in common with all other Cherokees, of at least one hundred and fifty dollars each. They removed their own families, and subsisted one year for the pittance of fifty-three dollars per head. Major Ridge, John Ridge, and Elias Boudinot, believing that the solemn treaty stipulations of the Government would be fulfilled, invested their all in the Western country. Major Ridge and John Ridge invested thirty thousand dollars in merchandise, and contracted a debt of ten thousand dollars more. Believing solemnly that the *per capita* money would be paid the Indians, they credited the poor suffering Cherokees for at least twenty thousand dollars of the property thus purchased. They cleared farms, and made improvements, and purchased stock, at an expense of at least ten thousand dollars more. In the mean time, the Government of the United States placed in the hands of their greatest enemy over a million dollars of the money which the treaty guarantied should be distributed in common. He and his adherents, were thus strengthened and emboldened. They were enabled to concentrate their instruments and to form a conspiracy, the atrocity of which is unequalled by any thing in the history of modern times. On the same morning, and nearly at the same hour, these, their chieftains, were made to bite the dust in death. John Ridge was drawn from the bosom of his wife and children, who subscribe this letter, and slain in his own house. Elias Boudinot fell in the mission ground at Park Hill. Major Ridge was followed into the State of Arkansas, and there sacrificed on the fell altar of revenge. Of the particulars of these

dastardly murders we will now say no more, as we are prepared with the proofs, if your Board will only notify us that you desire to hear them. These murders are yet unavenged. And when we consider the great power of the United States, and the necessity of making an example of such desperadoes, we must be allowed to say, with all due respect, that every effort to do so looks to us a good deal like mockery, which adds insult to injury. When last year the grand jury of Washington county identified the murderers of Major Ridge, a demand was made for their arrest through the Executive of Arkansas. But what steps have the United States taken to bring the malefactors to justice? None, surely, can better inform the United States than the Cherokee agent, the adjutant general, and colonel commanding in the Cherokee nation. They can best say whether the pardon vouchsafed to these murderers by Mr. Ross and his adherents has defeated the justice of a sovereign State. Be this as it may, we now solemnly declare it, as a cause of heart-rending grievance to the survivors, that these murderers, their aiders and abettors, have hitherto gone unpunished. We assert that such neglect has been sufficient reason to cause the widows and orphans of Ridges and Boudinot to flee from a country where their companions and parents were sacrificed on the fell altar of revenge with impunity. If the blood of their sires were allowed to cry from the ground unavenged, what hope was there that, as soon as the rising scions should stand in the way, they would not become the victims of a similar conspiracy? Impressed with these views, we have left the Cherokee country. In doing so, we have had to submit to many inconveniences: we have lost the valuable improvements purchased at so great a cost; we have lost the debts, the payment of which depended on the distribution of the *per capita* money; we have lost all participation in the education and orphan fund provided in the treaty of 1835; we have not had the means to pay the debt contracted for merchandise, which has thus become a total loss; we have seen published to the world a *decree* which declared our ancestors "outlaws"—outlaws for signing the very treaty which had enriched these arrogant men, who have prostrated all who stood in their way.

These are our grievances, and we stand prepared to prove all herein contained.

They are simply these :

1. That the murderers of Ridges and Boudinot have not been punished, nor have the Government of the United States taken the necessary measures to ascertain the extent of the conspiracy by which they fell.

2. That their widows and orphans have had to lose the entire value of their outlay and improvements.

3. That they have not received the *per capita* money provided in the treaty of 1835-'36.

4. That, owing to the unlawful payment of that fund to John Ross, and the withholding the balance, they have not been able to collect the debts contracted to them upon the faith of that fund.

5. That they have no participation in the orphan and education fund of the nation.

And they ask that the Government of the United States will—

1. Take measures to punish the murderers, their aiders and abettors, of Ridges and Boudinot, without respect to persons.

2. That the widows and orphans of Ridges and Boudinot may be paid

spoliation for losses of property consequent upon the murders, and for losses growing out of the non-payment of the *per capita* money; such losses to be proven as the United States shall direct.

3. That their families may be paid the *per capita* money lawfully due them under the treaty of 1835-'36.

4. That they may be paid a sum, for the education of their children, equal to what would be the just proportion of the national education and orphan fund provided in the treaty of 1835-'36.

In urging these demands, we would simply ask the question, Is there a single man in the United States, who has "a heart of flesh, and not of stone," who would advise us to return to that people who have bathed their hands in the blood of our sires; then outlawed their memory, and insulted the United States with the language of defiance whenever this subject has been agitated? Shall we be asked to risk our lives while the blood of our fathers remains unavenged? If so advised, we must be excused for once for not listening to our advisers.

Through you, gentlemen, we make this appeal to the President of the United States. If justice be denied us, let it be denied speedily. We know that in a land of plenty we cannot starve. And we shall leave the historian to say whether there is justice in our simple tale.

We are, very respectfully, your obedient servants,

SUSANNAH RIDGE,

WALTER RIDGE,

SARAH PASCHAL,

*Representatives of Major Ridge.*

SARAH B. N. RIDGE,

CLARINDA RIDGE,

JOHN R. RIDGE,

SUSAN C. RIDGE,

HERMAN D. RIDGE,

ÆNEAS RIDGE,

ANDREW J. RIDGE,

FLORA C. RIDGE.

*Administratrix, widow, and children, of John Ridge.*

S. WATIE,

JOHN A. WATIE,

*In behalf of D. S. Boudinot, Susan E. Boudinot, Mary Boudinot, William Penn Boudinot, Sarah P. Boudinot, Cornelius Boudinot, and Franklin Boudinot, heirs and representatives of Elias Boudinot.*

General ROGER JONES, }

Lieut. Col. MASON, }

P. M. BUTLER, }

*Cherokee Commissioners.*

—  
FORT GIBSON, *January 17, 1845.*

This communication, with a copy of the answer, is respectfully presented to the Secretary of War, to be laid before the President, in the way of "an appeal," agreeably to the request of the parties who signed it.

R. JONES,

*U. S. Army, and Commissioner.*

TAHLEQUAH, CHEROKEE NATION, *December 31, 1844.*

FRIENDS: The undersigned, United States Commissioners, sent into the Cherokee country to inquire into the complaints and difficulties of the "old settlers" and "treaty party" of the Cherokee people, acknowledge the receipt of your communication dated Van Buren, (Arkansas,) December 22, 1844.

In prosecuting the business of the Commission, we have met in council three hundred and fifty of the "treaty party," and their committee of twenty-four, to represent their alleged grievances and matters of complaint. Their written and oral statements have been duly received, and it is supposed they embrace subjects and cases of the whole party, properly within the scope of this commission, and even beyond the sphere of its jurisdiction. Your separate paper, in part, if not altogether, dwells upon topics of kindred import.

With regard to the sad events that occurred in June, 1839, and which have cast so deep a gloom over your mourning families, you have naturally dwelt, and expressed your views more in detail. In referring to the same events, the committee say: "*It is well known, from the correspondence and documents in the War Department, that, on the 22d of June, 1839, Major Ridge, John Ridge, and E. Boudinot, were murdered by the Ross party, contrary to the established laws of the 'old settlers,' then in existence.*"

With respect to so much of your communication as refers to the "*per capita*," or division of funds among all the people, as stipulated by the treaty of 1835-'36, we would remark, that the committee of the "treaty party" submitted, relative thereto, their memorial to Congress, presented in April, 1844, being Document No. 234, H. R., 28th Congress, 1st session.

The undersigned, having given respectful consideration to your paper, believe that the subjects therein treated are, for the most part, beyond the competency or range of this Commission; but they will cheerfully lay it before the Secretary of War, as a separate statement of your complaints, being of a special nature, and an "appeal to the President."

We are, very respectfully, your obedient servants,

R. JONES, *U. S. Army,*

R. B. MASON, *Lt. Col. 1st Drag.,* } *Commissioners.*

To Mrs. SUSANNAH RIDGE, }

WALTER RIDGE, }

Mrs. SARAH PASCHAL, }

Mrs. SARAH B. N. RIDGE, }

CLARINDA RIDGE, }

JOHN R. RIDGE, }

SUSAN C. RIDGE, }

HERMAN D. RIDGE, }

ÆNEAS RIDGE, }

ANDREW J. RIDGE, }

FLORA C. RIDGE, }

*Representatives of Major Ridge;*

*Administratrix, widow, and children  
of John Ridge;*

S. WATIE, and  
JOHN A. WATIE, }

*In behalf of D. S. Boudinot, Susan E. Boudinot,  
Mary Boudinot, William P. Boudinot, Sarah  
P. Boudinot, Cornelius Boudinot, Franklin  
Boudinot, heirs and representatives of Elias  
Boudinot—*

*Van Buren, Arkansas.*



TAHLEQUAH, CHEROKEE NATION, December 31, 1844.

SIR: The communication signed by the "widows, orphans, and representatives, of the late *Major Ridge* and *John Ridge*," and also by *S. Watie* and *John A. Watie*, "in behalf of the heirs and representatives of *Elias Boudinot*," Cherokees, dated Van Buren, (Arkansas,) December 22, 1844, forwarded to the Commissioners under cover of your note of the same date, was received the 27th instant, and I respectfully enclose, under cover to you, our answer, which the Commissioners will thank you to cause to be duly presented.

I am, very respectfully, your obedient servant,

R. JONES,

*United States Army, and Commissioner.*

Judge PASCHAL,

*Van Buren, Arkansas.*

## APPENDIX.

## No. 1,

*Containing papers referred to in the minutes, viz :*

- "L."—Statement of "old settlers."
- "N."—John L. McCoy's complaint.
- "O."—Statement of "treaty party."
- "T."—Statement of Joseph Vann.
- "U."—Communication of Cherokee authorities, accompanied by letters from 1 to 9 inclusive, and documents A, D, E, F, and G.
- "V."—Report of Captain A. Cady, on the subject of Cherokee laws.

## L.

[*December 17.*—The following statement was submitted to the Board, being the result of the deliberations of the "old settlers," or "Western Cherokees," and the exhibit, in their own way, of the complaints of alleged wrongs and oppressions.]

We, the undersigned committee, the legal representatives of the Western Cherokees or "old settlers," recognised as such by the United States Government as early as 1817, and in several successive treaties from that period until the last and final treaty of 1833, made at Fort Gibson, within the limits of our own country, which treaty secured to us in fee simple and forever the possession of all the territory now occupied both by the Western and Eastern Cherokees, do set forth, both by our own free will and accord, that we do not recognise any *authority, right, or power*, of the United States Government, to cede the country solemnly and sacredly guaranteed to us by the treaty of 1833, to any or other portion of the Cherokee tribe of Indians, known as the Eastern Cherokees; which cession, we hold, has been *illegally and unjustly* made by the treaty of 1835, with the last-mentioned Cherokees.

We do sincerely and in true faith believe and maintain that, in justice and equity, the whole territory (except 800,000 acres) now occupied by the Cherokees is vested, by a *just, right, and valid title*, in fee simple *exclusively and solely* in the *Western Cherokees*. And, under this conviction, we solemnly assert that *our rights* have been wantonly usurped by the Government of the United States; and it only requires a hearing on our part to incline that Government, from a due sense of justice and humanity, to make us ample restitution, and redress the wrongs which have been (we would venture to say) inflicted upon us unguardedly.

We further protest against the wrongs and tyranny which have been

heaped upon us by the usurped powers of the present Cherokee government. That *wrongs* and *grievances* of an aggravated character have been our lot since the institution of the present government in 1839, the history of *our country* from that period to the present time will fully testify. We moreover consider that the laws and government of the present dominant party are not adapted to the habits and genius of our people, that they are partial in their operation, and are exercised with rigor and severity upon that class of the people now opposed to the present usurping party.

In view of our present situation, and the many ills and wrongs we have suffered, we hereby pledge our willingness to petition the United States Government that we may be restored to our original government, as the "Western Cherokees" of 1817, 1819, 1828, and 1833, and to restore to us the lands we held under those treaties, and which were ceded by the United States Government to the Eastern Cherokees without our *knowledge or consent*—leaving it to the wisdom of the United States Government to make such further provision for us as may accord with the humanity and sound policy of that Government.

And we would further desire to see associated with us all or such portion of the treaty party of 1835 as would find it to their interest, welfare, and happiness, to be united under the *just* and *equitable* laws of our former institutions and government, when we flourished a happy and contented people.

JOHN BROWN,

*President Committee of Old Settlers.*

The committee beg leave, respectfully, to refer the honorable Board of Commissioners to the accompanying memorials (printed) for the facts, in detail, of the wrongs and grievances that have been inflicted upon us, by the Government of the United States, through the infraction of treaty stipulations.

JOHN BROWN,

*President Committee of Old Settlers.*

#### MEMORIAL.

CHEROKEE NATION,

*Near Fort Gibson, April 16, 1842.*

*To his Excellency the President of the United States :*

HONORED SIR : The undersigned, on behalf of that portion of the Indian family long known as the "Western Cherokees," beg leave to address you on a subject vitally important both to their nation and to the Government of the United States. A crisis in their affairs has arrived, which requires prompt and energetic action ; and they enter upon the task assigned to them by a solemn sense of duty with sentiments of respect and veneration for the constituted authorities of the United States, which have heretofore governed all their actions. They have complaints to make which can no longer be with safety deferred ; and they will endeavor, in doing so, to divest themselves of all unkind feelings against those from

whom they have suffered wrong, and base their appeal upon provisions made by law and treaty stipulations.

At the close of President Jefferson's administration, a council was held with the Cherokee people, upon a proposition to effect a *separation*, upon which occasion that venerated patriot speaks to them as follows: "The United States, my children, are the friends of both parties, and, as far as can be reasonably asked, they are willing to satisfy the wishes of both. Those who wish to remove are permitted to send an exploring party to reconnoitre the country on the waters of Arkansas and White rivers, and the higher up the better, as they will be the longer unapproached by our settlements, which will begin at the mouths of those rivers. When this party shall have found a country suiting the emigrants, and not claimed by other Indians, we will arrange with them and you the *exchange* of that for a just portion of the country they leave, and to a part of which, proportioned to their numbers, they have a right."

This was the assurance given by the President of the United States, on the 9th day of January, 1809, in reply to a petition from a deputation of the then existing two parties of the Cherokee nation, designated as the "*upper and lower towns*." The whole communication breathes kindness and encouragement, and lays the groundwork of all subsequent action upon the plan of organizing an Indian government west of the Mississippi river. It recognises the division of the Cherokee tribe, and from that period they have been known as the *Eastern* and *Western*, or *emigrant* and *anti-emigrant* party. In 1817, the first treaty arrangement was entered into between the United States and the Cherokees, predicated upon and in pursuance of the promise made by the President in 1809, although many of the emigrating party had already located upon the land referred to, on Arkansas and White rivers. The commissioners who negotiated this treaty had the whole previous correspondence between the Government and Cherokees before them, and understood the intentions, wishes, and true interests, of both parties. Its 3d and 4th articles make provision for a final separation of the *Western* from the *Eastern* Cherokees, and expressly stipulate that their property shall *thereafter* be held separately, and that the annuities arising from the sale of their lands shall be divided between them in proportion to their numbers. The 5th article provides for the exchange of lands; and the interest conveyed by the United States is clearly vested in the *Western* party.

In 1819, a convention was held by the Hon. John C. Calhoun, Secretary of War, with a delegation of Eastern Cherokees, who "expressed their earnest desire to remain east of the Mississippi river;" at which convention they stipulated for their future residence in the east, confirmed the separation from their western brethren, and agreed that their annuity should be paid thereafter, *two-thirds* to the Eastern and *one-third* to the Western Cherokees.

But a few years had elapsed after the consummation of this arrangement, when the Western Cherokees again found themselves surrounded by white people, and the Government manifested a desire to obtain the lands they occupied for its own citizens. Accordingly, a new treaty was negotiated in 1828, between the Hon. James Barbour, Secretary of War, and a delegation of Western Cherokees, by which the latter *exchanged their lands in Arkansas* for the country they at present occupy. The preamble to this treaty explains the causes which led to its negotiation, and the 1st and 2d



articles define the limits of the new country, with the solemnly pledged guaranty that *seven millions of acres, with a perpetual outlet west*, shall be and remain theirs forever. It was made exclusively with the Western Cherokees; they were alone responsible for its conditions; and if the bargain had been a bad one, if the lands received in exchange had been found less valuable than those relinquished in Arkansas, they alone could suffer. No interest of their eastern brethren was sacrificed or even involved in the bargain and sale or exchange of these lands. The 7th article clearly establishes this position, by the stipulation that the "Western Cherokees will leave all the lands to which they are entitled in Arkansas, and which was secured to them by the treaty of 8th July, 1817, and the convention of 27th February, 1819," when not one acre of land was relinquished on the east of the Mississippi river, although an invitation is extended to the Eastern Cherokees to join their western brethren, and the most liberal provision is made for emigrants, especially from the "chartered limits of the State of Georgia."

The undersigned can refer with pride to the progress of emigration under the treaty of 1828. The United States encountered no difficulty or delay in procuring the removal of the *Western Cherokees* to the country assigned them. They came promptly and cheerfully into the wilderness, and, overcoming every obstacle incident to a first settlement, they in a short time dotted it with their habitations and rich cultivated fields. When the commissioners came to treat with them in 1833, they were rapidly advancing in improvement and civilization. This treaty was concluded at Fort Gibson, on the 14th of February, 1833, and to its provisions the attention of the Chief Magistrate is now earnestly solicited. It is the last to which the United States and the Western Cherokees are parties; and upon its provisions we base our hopes of obtaining redress for the series of wrongs we have sustained since the usurpation upon our rights under the treaty of 1835. Its caption distinguishes the parties to it as "Commissioners on the part of the United States, and the chiefs and headmen of the *Cherokee nation of Indians west of the Mississippi*, they being duly authorized and empowered by their nation." The preamble again designates the Indian party as the "chiefs and headmen of the Cherokee nation west of the Mississippi," and fully and conclusively proves that the United States and the *Western Cherokees* were the sole parties to the treaty of 1833. The *Eastern Cherokees* were consulted by neither party on the subject of this treaty; they had no delegation attending the council; offered no opinion or advice concerning the arrangements to be made; and manifested no anxiety about the settlement of boundaries, which were intended to limit the Cherokee country forever. They were at that time entirely indifferent about the affairs of their western brethren, and remained quietly at home, attending to their own interests.

Having now shown the existence of two distinct and separate bands of the old Cherokee nation, ever since the year 1809; that they divided their property by the treaty of 1817 and convention of 1819; that in 1828 the *Western Cherokees* treated with the United States for an exchange of lands, as a separate and independent nation; and that this nation, thus constituted, is the sole party in interest with the United States to the treaty of 14th February, 1833, the undersigned now submit its provisions for your serious consideration.

The object of the Government in making this treaty, as avowed at the

time, was to "adjust and settle boundary lines between the Cherokees and Creeks, and other neighboring tribes, about which there was some dispute;" and also to fix definitely and permanently the boundaries of the Cherokee country, in accordance with the provisions of the treaty of 1828. These boundaries are established by the 1st article, and a title to the lands, in *fee simple*, confirmed to the Cherokees, with the solemn promise, on behalf of the United States, "that letters patent shall be issued as soon as practicable for the land hereby guarantied." This treaty contains no proviso for the admission of the Eastern Cherokees, similar to that contained in the 4th article of the Creek treaty concluded at the same time, which expressly provides "that the land assigned to the Muscogee Indians shall be taken and considered as the property of the whole Muscogee or Creek nation, as well of those now residing upon the land as the great body of said nation, who still remain on the *east side of the Mississippi*." No condition of this kind can be found in the Cherokee treaty. It contains a complete and absolute surrender, by the United States, to the Western Cherokees, of all title and jurisdiction to, or over, the ceded lands. It makes no reference to, or reservation under, any existing law of the United States, but on the contrary it repeats, by its 3d article, that clause in the treaty of 1828 wherein the United States "agree to give the Cherokees a plain set of laws, and survey their lands at the cost of the Government, whenever they desired to own them individually."

The act of Congress of May, 1830, cannot affect the tenure to these lands, as no reference is made to it by the treaty under which the Cherokees derive their title, and that law is intended exclusively to enable the President to effect an *exchange of lands* with Indians residing east of the Mississippi, for an equal number of acres west of said river, in pursuance of the long-settled policy of the Government. There was no *exchange of lands* made by the treaty of 1833. It only confirmed the title vested in the Cherokees by the treaty of 1828, which was concluded two years *anterior* to the passage of the law referred to. Hence, the undersigned declare the opinion, always entertained by their people, that a full and absolute title, in *fee simple*, to the *seven millions of acres, with the outlet*, passed from the United States to the Cherokees, by the treaty of 1833, as fully and effectually as any cession of lands could be made by treaty, concluded between the United States and Spain, or France, or any other Government or people. This title was confirmed by the ratification of the treaty on the 12th of April, 1834, and no *subsequent* law or treaty stipulation can change it, or impair the rights conveyed and guarantied, without the assent of the Western Cherokees, as a party to such law or treaty. Having thus, we humbly believe, clearly shown, by existing treaty stipulations, that the *Western Cherokee nation*, as organized under the treaty of 1817, are the rightful owners of the soil now contended for by the *Eastern Cherokees*, the undersigned present this humble memorial to you, as the Chief Magistrate of the United States, and implore your aid and protection in this effort on behalf of their people to obtain their just rights. The Western Cherokees, by their energy and perseverance, obtained this last resting place for their nation—they secured to themselves and their posterity a territory embracing altogether at least fourteen millions acres of land, and made other provisions for the benefit of their people. They were the *pioneers* who first tilled the ground on the extreme western border of your extended territory. Placed in the vicinity of the then wild

and savage tribes of this frontier, and subjected to their long-continued depredations, the first years of their emigration were exhausted in protecting their property and themselves against incursions from their lawless neighbors. Thus did the Western Cherokees—the old settlers—the pilgrims under the treaty of 1817, toil and struggle to obtain the settled home in the far west, promised them by the President of the United States as early as 1809. Where are these people now, and where are the rights and immunities so often promised, and at last solemnly pledged to them? Why, they are aliens in their own country, with another people and other laws ruling over them. And this usurpation has been perpetrated under the apparent sanction and authority of the New Echota treaty of 1835—not by those who negotiated that treaty with the United States, but by the very men who opposed the arrangement, from its inception to its confirmation, and who do not now acknowledge its validity.

The undersigned do not complain against their Eastern brethren for making that treaty, but they do complain and protest against some of its conditions. It was a transaction between the United States and the *Eastern Cherokees*, bargaining for a cession of the lands held by the latter *east of the Mississippi*, in which the Western Cherokees had no concern. It would not legally affect any rights secured to them by former treaties, without their full and voluntary consent and approbation. But what are its stipulations? The United States contract to pay the Cherokees five millions of dollars for a *relinquishment of all their lands and possessions east of the Mississippi river*, and then agree to give them a country in the west, in accordance with the provisions of the act of May 28, 1830. And the country thus provided and given in exchange for that obtained from the Cherokees east embraces the *very tract of land solemnly guarantied to the Western Cherokees by the treaty of 1833*, and for which, by the condition of that treaty, they ought then to have been in possession of a patent from the United States.

The undersigned earnestly solicit the President's attention to this portion of their complaint. They ask him to examine the provisions of the treaty of 1833, which has never been repealed or annulled by any act to which the Western Cherokees have been a party; and then read the conditions of the New Echota treaty, for a plain and palpable violation of these provisions. The United States assume, by the treaty of 1835, to be the owner of the country transferred to the *Western Cherokees* by the treaty of 1828, in exchange for their lands in Arkansas, and confirmed with a *fee simple title* by the treaty of 1833; and cede this country, whole and entire, to the *Eastern Cherokees*, either as a *gratuity* or in *exchange* for their lands east of the Mississippi. In order to obtain a clear understanding of the terms of the New Echota treaty, we will quote such portions of it as have a bearing upon the present question. The preamble gives a resolution of the Senate, which says: "That a sum not exceeding five millions of dollars be paid to the Cherokee Indians, for all their lands and possessions east of the Mississippi river." This would be, to all intents and purposes, a sale and purchase, with a full consideration paid. The first article, however, varies the terms expressed in the above resolution, and reads thus: "The *Cherokee* nation hereby cede, relinquish, and convey to the United States all the lands owned, claimed, and possessed, east of the Mississippi river, and *hereby release all their claims upon the United States for spoiliations of every kind*, for and in consideration of

the sum of five millions of dollars," &c. But the same article contains an agreement to submit this question again for the consideration of the Senate. The second article then describes the boundaries of the country secured to the *Western Cherokees* by the treaty of 1833, quoting the very words of that treaty; and then, preparatory to its cession to the *Eastern Cherokees*, this article provides that: "Whereas it is apprehended by the Cherokees, that in the above cession there is not contained sufficient quantity of land for the accommodation of the whole nation, on their removal west of the Mississippi, the United States, in consideration of the sum of *five hundred thousand dollars*, therefore, hereby covenant and agree to convey to said Indians and their descendants, by patent in *fee simple*, an additional tract of land, which is described and estimated to contain eight hundred thousand acres." By the third article, the whole country is then conveyed as follows: "The United States also agree, that the lands above ceded by the treaty of February 14th, 1833, including the outlet, and those ceded by this treaty, shall be included in one patent, executed to the Cherokee nation of Indians by the President of the United States, according to the provisions of the act of May 28, 1830."

The undersigned now submit the question: "Would not the annexation of the additional tract of eight hundred thousand acres, for a consideration paid therefor, clearly prove that the \$5,000,000 was to be received as payment in full for the lands ceded in the east, and that the party who sold it must provide a country for themselves, if the United States had not, at the same time, and by the same act, ceded to them the lands of the *Western Cherokees*?" The inference to be drawn from these acts is plain and manifest. The United States are either bound to pay for all the lands conveyed to the *Eastern Cherokees*, out of its own funds, or else the balance of the \$5,000,000, after deducting the \$500,000 paid for the additional tract, should be applied for that purpose. The Government, it is presumed, did not intend to pay both in *money* and *lands* for the possessions relinquished by the *Eastern Cherokees*, otherwise it would not have demanded payment for *its own lands* given in exchange.

By the convention of 1819, it was estimated that the *Western Cherokees* comprised one-third of the old nation, and the annuities have since been divided and paid in that proportion. If, then, they were possessed of seven millions of acres, with an outlet of the same extent, estimated together as containing *fourteen millions of acres of land*, and it was proposed to purchase of them a part of it for the accommodation of their *Eastern brethren*, in proportion to their numbers, the *Western Cherokees* would be entitled to payment for upwards of nine millions of acres! and the value placed upon it should be made to correspond with the price paid for "the additional tract" sold by the United States to the *Eastern Cherokees*, by the same act under which it was conveyed. Is not this a fair and plain presentment of the facts of the case? The United States sold to the *Eastern Cherokees* *eight hundred thousand acres of land*, and conveyed to them at the same time about nine millions of acres more, belonging to another party, without the consent of said party, or paying value therefor to the rightful owners. Thus have the *Western Cherokees* been dispossessed of two-thirds of their landed possessions, and the act has been committed by the Government of the United States, who claimed the ownership after the Indians had obtained lawful possession, and disposed of them by the treaty of 1835, as it would dispose of any of the public lands. Would any



people or nation upon the face of the earth, provided for as the Western Cherokees, voluntarily and tamely surrender possession of their lands without receiving an equivalent? Or would any nation of people, governed by rules of law and equity, forcibly take such possession of the property of another, or obtain it without hinderance, because there existed no power of resistance? Not one single benefit has been conferred upon the Western Cherokees by the New Echota treaty, except the addition to the general school fund, provided for by the 10th article. The various shops and mechanics, now so beneficially employed for the nation, were provided for by the treaty of 1833; and no addition is made to these provisions by the treaty of 1835. The only party intended to be benefited by that treaty, according to the stipulations of the 15th article, were the Cherokees then residing east, and those who had enrolled for emigration since June, 1833. On the other hand, not only the title to the lands has been taken away or changed, but other rights and privileges of the Western Cherokees are curtailed, and all their interests injuriously affected by its provisions.

Now, we seriously ask, "how did the United States *regain* possession of the lands conveyed to the Western Cherokees by the treaty of 1828? Or where did the Government obtain the power to exercise possessory control over it after the treaty of 1833?" That treaty had been approved by the President, and ratified by the Senate of the United States, and was, in December, 1835, binding and obligatory upon both the contracting parties. It had never been annulled or repealed by any act to which the Western Cherokees were a party; and they never granted or acquiesced in the control assumed by the United States in 1835, but always have and do now deny the existence of the power there exercised.

Let us examine further the treaty of 1835. By the 1st article, as has already been shown, the Eastern Cherokees cede to the United States all their lands and possessions east of the Mississippi, for and in consideration of the sum of \$5,000,000, which is to include all their claims for spoliations of every kind. But, as doubts had arisen about the intention of the Government in making this stipulation, the question was again "submitted to the Senate, for their consideration and decision." Now, let us turn to the supplementary articles of this treaty, agreed upon on the 1st day of March, 1836, and we find that the *five millions of dollars* was fixed as the value of the Cherokee lands east of the Mississippi! and that the sum \$600,000 was provided to pay the expenses of their removal west, and to liquidate all their claims, of every description, against the United States, not otherwise expressly provided for. This sum of five millions of dollars, therefore, cannot be touched for an expenditure under the treaty, except \$650,000 required by the 10th article, and \$500,000 stipulated for in the 2d article, as the consideration to be paid to the United States for the cession of the additional tract of land. Every other claim is embraced within the provisions of the 3d supplementary article, and cannot be taken from the *five millions* to be paid as the value of the lands relinquished by the Cherokees. The balance of this money, therefore, amounting to four millions and fifty thousand dollars, was due to the Cherokees upon the ratification of the treaty, and should have been equally divided among them, as provided for in the 15th article, which denominates the recipients as "the people belonging to the Cherokee nation *east*, and such Cherokees as have removed west since June, 1833!" This money, which is called per capita

or head-right money, has been long and anxiously looked for by the Cherokee people; and although the Western Cherokees are debarred from all benefit by the terms of the treaty, yet they sympathize with their Eastern brethren, and ask the question, what has become of this money? The balance of upwards of four millions, as we have shown, has not been expended for any legitimate purpose; and it is doubtless in some safe depository, intended to be applied in effecting some great national measure. The first foothold was obtained in this country by the Eastern Cherokees, under the promise that their Western brethren should receive a proportionate share of this fund, and participate in all the benefits of the treaty of 1835. And the same deception, practised upon the credulous of our people, procured the execution of an instrument, in writing, styled "*An act of union between the Eastern and Western Cherokees*," dated July 12, 1839.

The undersigned, a remnant of the old Cherokee settlers, who left the home of their fathers east of the Mississippi a quarter of a century ago, do now, for themselves and on behalf of the Western Cherokees, most solemnly protest against that act of union being taken as their *act* and *deed*, or that under its provisions they can be divested of any rights guaranteed to them by former treaties. They do likewise most solemnly protest against the occupancy of their lands under the treaty of 1835; and recognise no treaty stipulation conveying title to the lands they now occupy and claim as their country, except those concluded in 1828 and 1833. And, lastly, they do solemnly protest against the exercise of any right or jurisdiction over their country by a delegation of Cherokees who have recently gone to Washington city, purporting to be a delegation representing the Cherokee nation.

The undersigned, who have been appointed a committee at a convention of *Western Cherokees* now in session, present this humble memorial to you, as the Chief Magistrate of the United States, with the fervent prayer that you will maturely consider their case, and procure justice to be done to the Cherokee nation.

A delegation of the old men of the nation, formerly chiefs and principal councillors, who signed the treaties of 1817, 1828, and 1833, have been this day appointed to visit the seat of Government, clothed with full powers to settle and adjust all the affairs of their nation.

When they meet you, they will submit distinct and plain propositions for your consideration; and as their claim is founded upon sound principles of law, justice, and humanity, they hope, under the protection of a kind Providence, for the happiest results.

With sentiments of respect and esteem, we are your friends,

JOHN ROGERS,

*Who signed the treaty of 1828 and 1833 as*

*President of National Committee.*

THOMAS WILSON,

*S. C., and signer of treaty of 1817.*

GLASS, his + mark.

*Who signed treaty of 1833 as President of Council.*

his

JAMES CARY, + or CHICKEN COCK.

mark.

his  
JOHN + SMITH, *signer of treaty 1817.*  
mark.

his  
CAPTAIN + DUTCH, and  
mark.

THOMAS L. ROGERS,  
COMMITTEE ON BEHALF OF WESTERN CHEROKEES.

Witnesses present at signing—

WILLIAM D. SHAW,  
THOMAS L. ROGERS, *District Judge Cherokee Nation.*  
PETER HARPER.

[The statement was further accompanied by H. R. Doc. 235, 28th Congress, 1st session, April 13, 1844.]

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N.

FORT GIBSON,  
*Cherokee Nation, December 21, 1844.*

I have had taken from me, by Mr. Alexander Foreman, captain of one of the police companies, in the fall of 1843 : one shot gun—cost, fifty dollars ; and one pistol—cost, fifteen dollars ; *the whole cost, sixty five dollars.*

And about the same time, in the same year, shortly after my return home from Washington city, I thought proper to make a visit to Flint district, some thirty or thirty-five miles from my place of residence in the Cherokee nation, to see some of my friends, whom I had understood desired to see me upon matters of business concerning our mission as delegates to Washington. Upon my arrival there, I fell in company, at the house of Mr. Henry Naves, a place of resort for subsistence and forage for the companies in search of the murderers of Mr. Benjamin Vore and family, a licensed trader in the Cherokee country, with the above-named Mr. Foreman, who arrived there shortly after I did, the same day, from Tahlequah, with full power to organize a police company, at which time and place he did so ; and whilst taking down the names comprising his company, I was standing by. Mr. Foreman observed to me, that he would place my name upon the list. I objected, for the reason that I had only come up in that quarter on a visit to see my friends, and desired not to have my name registered ; that my business at home was such that I could not feel satisfied to leave. His reply to me was, that I had left my home when I went to Washington city, and was absent a considerable time, and could do it again ; consequently, he would be forced to register my name as one of his company.

I objected to the last to having my name put down, but it all had no effect. I said nothing more for a considerable time during the day, for I felt as though I was in their power, and would be bound to submit. I

took it easy, fearing the consequences, should I have done otherwise, till the morning came for the companies to disperse from that neighborhood for Tahlequah. I then insisted that Captain Foreman should let me off, as I desired greatly to return to my home; that my family was not exactly well when I left them, and would be glad if he would let me off. He said that he could not do so; that I had to go with him to Tahlequah. I said to him, that I did not wish to go to Tahlequah, as I knew that I would not meet many friends at that place; his reply was, that I had to go. Feeling as though I was completely in his power, I thought it best not to show any thing like fear or resentment, as, in my opinion at the time, it would make the matter more fatal on my part. It was much against my wish and will that he, Captain Foreman, took me to Park Hill, in the neighborhood of Tahlequah, where we spent the night at the house of Mr. Stephen Foreman, when, if he had let me off, as I desired in the morning, I could have been at my own residence instead of the house of Mr. S. Foreman; at which place the captain let me off, and I went home, thirty-three miles further than I would had to have rode, if he had let me off when I first applied. Thus I have been deprived of my property and privileges, by authority which Captain Foreman had no right to exercise over any individual of our nation.

JOHN L. McCOY.

R. JONES,  
Col. R. B. MASON, } *Commissioners on Indian Affairs.*  
P. M. BUTLER,

*Remark.*—This complaint was inquired into by the Commissioners, and ascertained to be more imaginary than real.

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O.

*Statement submitted by the Committee of the Treaty Party.*

We, the undersigned, have been appointed a committee to make known the grievances of the treaty party of Cherokees, and others, who emigrated under the treaty of December 29, 1835.

It is well known that necessity, and not choice, induced us to become the advocates of a cession of the Cherokee domain east, and to move west of the Mississippi river, where we were promised a peaceable home for ourselves and our children. It is a matter of history, that, simultaneous with our becoming the advocates of emigration, the cunning and designing of our nation misrepresented our motives, charged upon us treasonable designs, and took every unscrupulous means to array the bitter prejudices of the less informed of our tribe against us. The most rigorous laws to prevent free expression of popular opinion were passed. The right of free discussion was denied, and the use of every means which are regarded as the best security of popular liberty every where was tyrannically prohibited. The Government of the United States understood the ruinous and inextricable difficulties which surrounded us. They well knew that the only relief to be found for us was in the removal of our whole people to



settlements beyond the State boundaries. The unwillingness of our people to this course was set down to the obstinacy of our chiefs and more intelligent of our leaders. Without saying whether the complaints of the United States Government were true or not, suffice it to remark, that *necessity* became a *law*, and a party who were regarded as having sufficient authority by the Government of the United States entered into the treaty of December 29, 1835. From the great opposition which had been arrayed against this party, it was well understood and foreseen, that, in their new homes, the strife thus unfortunately engendered might easily be kindled into a civil war of the most deadly character, when the people should be transferred beyond the laws of the States. To prevent consequences so dreadful, the United States guaranteed to the Cherokees, by the sixth article of the treaty, "protection against domestic strife among themselves." This article of the treaty was understood by all parties, at the time, as a security to the signers of that treaty and their friends. This was so expressed by the published correspondence at the time, and it has been reiterated again and again by the Indian Commissioner and Secretary of War, in their correspondence and published reports on the subject of Cherokee difficulties.

Having premised thus much, we will now, very briefly and respectfully, proceed to enumerate the oppressive acts of which we complain.

It is well known, from the correspondence and documents in the War Department, that, on the 22d of June, 1839, Major Ridge, John Ridge, and E. Boudinot, were murdered by the Ross party, contrary to the established laws of the "old settlers" then in existence.

In May, 1842, a well-armed party actually set out upon the unhallowed purpose of murdering the aged widow of the fallen Major Ridge.

The charge, trial, conviction, and execution of Jacob West, of Saline district, under the mockery of a trial by jury, surrounded by an armed company of from one hundred to three hundred men; and the charge, trial, condemnation, and pardon of his son, John West, for the same offence, and the unlawful infliction of one hundred lashes on his bare back, after he was absolved from the judgment of court by pardon.

By a law of council, those of us who had invested their last remaining substance in the adventures of sinking wells, and preparing for the manufacture of salt, thus benefiting our own country and the adjoining States, were, on the first of January last, deprived of our salines and wells.

Some have had other property taken from them, contrary to law or justice, viz : John Duncan.

Others of the party have been seized, chained, and detained, without a crime, then discharged without investigation or apology, viz : Joseph Starr, Eli Starr, James V. Taylor, Samuel McDaniel, E. G. Smith, William Smith, William Rogers, William Nickolson, David Reese, James Holt, George Crapo, John Elliott, Dennis Perdue, and Lovely Rogers.

The standing army, known to you by personal observation, has been and is at present kept up at an enormous expense, swallowing the annuity and other common funds of the nation. The terror and confusion created by this army has caused many of our countrymen to leave the nation, and seek an asylum in the States.

And, finally, we wish to direct your attention particularly to the body guard of John Ross, Lewis Ross, and David Vann.

Now, with a short notice, we will be able to prove the above charges.  
We are, very respectfully, your obedient servants,

EZEKIEL STARR,  
*Chairman Committee Treaty Party.*

DECEMBER 21, 1844.

Unanimously adopted by the committee of the treaty party.

J. L. THOMPSON,  
*Clerk Treaty Party Committee.*

HON. R. JONES,  
R. B. MASON, } *United States Commissioners.*  
P. M. BUTLER, }

[With this written statement was submitted a "memorial" of the "treaty party," being document H. R. No. 234, 28th Congress, 1st session, April 13, 1844.]

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T.

*Statement, by Mr. Joseph Vann, of his knowledge of certain matters pertaining to this inquiry.*

TAHLEQUAH, January 8, 1845.

Mr. Joseph Vann states, on this 8th January, 1845 :

I was a member of the national committee of old settlers in June, 1839. At that time, a general meeting took place at the Double Springs council ground; this meeting was called by John Ross and John Brown, Principal Chiefs of the Eastern and Western Cherokees. This meeting was called for the purpose of uniting the Eastern and Western Cherokees, and to come to some understanding on the subject of the formation of a national government. This meeting broke up without effecting any thing. The Eastern Cherokees and part of the old settlers called a convention of the people at Illinois camp ground, whilst the chiefs, together with a few of the old settlers, assembled at Fort Gibson. A correspondence took place between those at Fort Gibson and those at Illinois camp ground. The principal men of the treaty party were with the Western chiefs at Fort Gibson.

About the 1st July, the Western chiefs and treaty party appointed a meeting, to take place at Tahluntuskey, (near the mouth of Illinois.) Some time during the same month, I was taken sick, and did not attend the meeting. Those who had called the meeting at the Illinois camp ground entered into an act of union, formed a constitution, and established a government.

About the month of September, 1839, I was sent for by the old settlers who had joined the Eastern Cherokees, and went to Tahlequah, near the Illinois camp ground, where I was shown the act of union and constitution that had been formed and entered into; I examined them, approved them, and signed the act of union, and thus joined the Eastern Cherokees.

At this place, and somewhere about this time, they elected their officers agreeably to the provisions of the constitution, when I was elected the second chief under the new government.

About the last of November or first December, same year, I was called on by General Arbuckle to call on the Eastern Cherokees to reply to a letter from the Secretary of War dated in October, and also an extract of a letter dated in November, for which purpose I called them together at Tahlequah some time in December. When they met, Governor Stokes, the Cherokee agent, was there, and delivered us a speech. In consulting with him on the subject of the extract of the Secretary of War's letter, he stated it was his duty to call all the Cherokee people together. He, together with a committee of Eastern Cherokees appointed for the purpose, agreed we should all meet in January, 1840, at Tahlequah. The committee on the part of the Eastern Cherokees pledged themselves that individuals of all parties should be free from molestation or interruption whilst coming to or returning from said meeting in January. The agent also pledged himself that no United States troops should be there, as they were at the time in search of the murderers of Ridges and Boudinot. The agent then issued notices for all parties of Cherokees to attend the meeting, for the purpose of adopting or rejecting the then existing Cherokee government; the views of the United States Government, as expressed to General Arbuckle, were, that a majority of the Cherokees, fairly obtained in council, was to govern.

In obedience to this call of the agent, the Eastern Cherokees were the only party that met at the time and place appointed.

The first note taken was upon the removal of the decree of outlawing passed against all the signers of the treaty of 1835.

About 1,700 voted for the removal of the decree; no one voted against it. The next vote taken was upon the adoption or rejection of the then and now existing Cherokee government; it was adopted by a unanimous vote of between 1,700 and 1,900 votes.

The votes were counted by Governor Stokes and Captain Page of the United States army, as the voters passed by them for the purpose of a count.

The assemblage of the people then dispersed, believing they had done all that was required of them by the United States Government. But two subjects were presented to them—that of removing the decree of outlawing, and adopting or rejecting the then as now form of government. After this, General Arbuckle received further instructions from his Government, touching the disqualification of John Ross and William Coody from holding office, and called the Eastern and Western Cherokees to meet at Fort Gibson some time in April following.

The committee of old settlers agreed to the views as expressed by the Secretary of War, whilst the committee of the Eastern Cherokees, referred to, agreed to the disqualification of Ross and Coody. There were other points in the Secretary of War's instructions that I do not remember. The committee on the part of the Eastern Cherokees then agreed that I should call a meeting of all the Eastern Cherokees at Tahlequah, to take into consideration the Secretary of War's instructions to General Arbuckle. I appointed the time of meeting to be about the last of May. The people met, and appointed a committee to reply to the Secretary's instructions. About the time the reply was written out, I received a letter from General Arbuckle, to send about 25 or 30 Eastern Cherokees, to meet that number at Fort Gibson of old settlers on the 10th of June, for the purpose of endeavoring to settle the difficulties then existing among the Cherokee people, in consequence of there being two governments existing among

them at the same time—that of the Eastern Cherokees, and that of the Western Cherokees. The national council of Eastern Cherokees decided that I, acting Principal Chief in the absence of Mr. Ross, should nominate 12 men for their confirmation ; that, when confirmed, I should give them their appointment and instructions. I instructed them to meet at Fort Gibson on the 10th of June, and endeavor to reconcile all difficulties, and if possible to enter into an act of union with the old settlers who had not entered into the act of union of 1839, provided it did not conflict with the then existing constitution and laws of the Eastern Cherokees.

There they entered into the union of June, 1840; and, for the purpose of fulfilling the understanding of the parties at the time, I resigned the office of second chief, that the old settlers might fill the vacancy thus created with one of their party ; this vacancy they filled on the spot with Andrew Vann. The understanding of the parties, further, was, that the old settlers were to have one-third of all the offices of the government, and therefore vacancies were created by resignation, and filled on the spot by the committee of old settlers, to the full extent of the agreement, they getting the full one-third agreed upon. These officers, thus appointed, immediately entered upon their duties as soon as they took the oaths required by the constitution and laws. The understanding was, that the one-third of the officers thus given was only for one constitutional term ; after that, they were to take their chance at the elections, in common with other citizens.

In August, 1841, the elections came on, and I, together with a number of others of the old settlers who joined under the act of union of 1840, were elected members of the national committee and council. The national committee elected me their president. The committee then settled all national claims, properly substantiated, which had arisen under the government of the old settlers, in common with those under the newly formed government, as also those of Eastern Cherokees, this being agreeable to the union of 1840. The national committee passed “a resolution in relation to a visit to Washington city, by John Rogers,” (see the resolution, dated 28th November, 1842, published with the Cherokee laws,) requesting the Principal Chief to notify the agent, for the information of the United States Government, that Captain John Rogers and others have not been authorized by the nation, and, therefore, any act of theirs will not be binding on the Cherokee nation. This resolution was passed by the national committee by a unanimous vote. Ezekiel Starr and Charles Reece, both signers of the act of union in 1840, were members of the committee, and voted for the aforesaid resolution.

J. V. McNair, (treaty party,) James Starr, (treaty party,) William Dutch, (old settler,) and J. M. Lynch, (treaty party,) also voted for the resolution, and were found last month, with the exception of Lynch, on the committee of complainants at Fort Gibson. The same resolution was passed by the council. Wrinklesides, (signer of act of union in 1840, and on committee of complainants at Fort Gibson,) William Drew, (old settler,) Richard Drew, (old settler,) both on the committee of complainants at Fort Gibson, Samuel Chambers, (old settler,) The Wind, (old settler, signer of the act of 1840, and one of the committee of complainants at Fort Gibson,) Sawnee Vann, (treaty party,) Brice Martin, (treaty party, believed also to be one of the committee of complainants at Fort Gibson,) John Huss, (treaty party,) and John West, (treaty party,) both on the committee of complainants at Fort Gibson, were men here on the council when the resolution passed, and I



believe voted for it. At the election of 1843, I was run by the old settlers and treaty party against Mr. Ross, for the office of Principal Chief, and was beat a long way.

Mr. Vann further states: That in the spring or summer of 1835, a delegation of four persons were sent from among the Western Cherokees to the Cherokee nation east of the Mississippi, with instructions, that if they could be of any service to the Cherokee people, without taking sides with any party, in bringing about any general arrangements, they were authorized to do so. This delegation of four was duly appointed, and instructed by the Cherokee authorities west. The individuals thus appointed were John Smith, John Drew, William S. Coody, and myself. The chief, John Jolly, who was authorized by the council to fill any vacancy that might occur in our body, appointed James Rogers, before any vacancy occurred, to unite with us and go with us to the nation east of the Mississippi, for the purposes above stated; and thus there were *five* of us, instead of *four*, as contemplated by the council. The first four names were the only names placed upon our credentials this side of the Mississippi. When about starting, something turned up which prevented me from going; and thus a vacancy was created, which Rogers filled by virtue of his previous appointment by Jolly. His name, I am told, was not put upon the credentials until some time about the signing of the treaty party of 1835, either just before or soon after. We had no authority, by virtue either of our credentials or instructions, to engage in any treaty making either with the United States or Eastern Cherokees. As soon as James Rogers and John Smith returned from the east of the Mississippi, and the condition of the treaty of 1835 made known, I wrote a letter, by the direction of our chiefs Jolly and Blackcoat, to "James Starr and others," of the treaty party, stating to them that the Western Cherokees were entirely opposed to the treaty; that they, the Western Cherokees, received no benefits from it. This letter was written in the presence of James Rogers and John Smith. At the bottom of this letter, John Smith wrote, in substance: "You will now see what I told you before, that the Western Cherokees would not agree to the treaty."

U.

PARK HILL, CHEROKEE NATION,

January 14, 1845.

GENTLEMEN: In thinking over the points of inquiry embraced in the questions of the United States Commissioners to the Cherokee authorities, we have recollected the following, which, in the multiplicity of objects pressing on our attention, had escaped our notice. And here we would respectfully remark, that, should the Commissioners discover any other point which they deem of importance, and which has not been met in our answers, or on which they wish further information, we shall be glad to have our attention called to it, as we have not intended to leave any thing unanswered, from which a ray of light might be shed on our affairs. Our sincere wish is, fully to meet and explain every existing difficulty. In the story about Mrs. Ridge, the complainants have brought no testimony to support their allegation, which they certainly would not have failed to do

if they had any to adduce. The tale is evidently told for *effect*, and is not worthy of a refutation, even if a vague rumor admitted of a refutation.

The case of Holt is as follows: Mr. G. W. Gunter bought a place, to which he made additional improvements, in the vicinity of which Holt had a cabin. The distance of Gunter's place from Holt's cabin was greater than the law required in such cases, but in stretching out his field he came within Holt's claim. Mr. Gunter sold his improvements to Henry Nave. Holt sued Nave for his whole farm and improvements, on the ground that they were within his claim. The court decided to fix a line between Holt's claim and Nave's, as prescribed by law, and gave Holt a part of Nave's field, but threw the costs on Holt, because he had sued for the whole farm, to which he had no right.

The case of the hogs was decided in conformity with the laws of the country.

The memorials referred to by the complainants being throughout a tissue of misrepresentation, elaborated by greedy hirelings for purposes of gain, to follow the mazes of fallacy through which they lead would be a fruitless waste of time. And inasmuch as the Commissioners, in the course of their inquiries, cannot have failed to become acquainted with the grounds on which they are based, both as regards principle and facts, we deem it needless to make any direct reply to them.

We have now gone through the series of questions propounded to the Cherokee authorities in relation to complaints made to the Government of the United States by certain individuals, who *call themselves* "old settlers," and "treaty party."

We trust these questions have been so far answered, that, in connexion with other information possessed by the Commissioners, they have become satisfied that, for these complaints, there exists no just cause.

We hope it has been proved, beyond all question, that the "act of union" is a valid instrument; that it was approved and confirmed by all classes of our citizens; that, by it, all the difficulties and agitations which distracted the country at the time were effectually quieted and settled; and that its operation, through the provisions of the Constitution and laws, which are based upon it, has been salutary and satisfactory in a high degree.

That all parties held offices under the existing government, without any consideration of former distinctions; that the whole people, including the complainants themselves, even the rankest of those who call themselves the "treaty party," have all taken the most lively interest in the elections under it, and have had large majorities in the council; that they have received payment for claims, originating under the government of the Western Cherokees, to very large amounts, some of them extending back twenty-four or twenty-five years; that the oppressions complained of are unreal and fictitious; that, in the administration of justice, party considerations have had no influence; that, in the saline question, there has been no infringement of private rights, but, on the contrary, in cases in which the individuals had long since forfeited both their leases and their improvements, by the law under which the contracts were made, the nation, in taking possession of the public property, did not press the forfeiture of the improvements, but allowed for them a full and fair valuation.

The tables which have been laid before you will show that none of that

partiality and proscription complained of have been practised in the distribution of the offices of the government.

Those tables will further show, that the Cherokees are emphatically *one people*; that the circumstance of a candidate for office being an "old settler" or a "late emigrant" has no biasing influence on the exercise of the elective franchise. This fact we wish to bring distinctly under the notice of the Commissioners. The distinction of "Eastern" and "Western Cherokee" or "old settler," in the sense of marking opposing parties and conflicting interests, has no more existence in the feelings and practice of the people, than it has in law.

After the approbation of the "act of union" by John Rogers and his adherents, in 1840, there was no opposition left to the established government and laws, and all was going on with undisturbed harmony. Our individual and national claims had been laid before the Government of the United States, and had received the favorable attention and recognition of the President, whose just and liberal and friendly views of our affairs are frankly declared in his letter of September 20, 1841.

In pursuance of the intentions of the President, the United States agent was directed to ascertain the extent of the losses which had been sustained by our individual citizens. Our prospects were brightening, and satisfaction beamed in every countenance, in the assured hope that their troubles were soon to terminate, and that a long career of improvement and prosperity was just opening before them. But the cup of felicity was dashed from their lips untasted. About this time, a new plot came to light, planned and manufactured for mercenary and mischievous purposes, by Stambaugh, Paschal, and other speculators on Cherokee spoils. Of the pretensions and claims set up under the authority of that conspiracy, we need not speak. The inquiries of the Commissioners have doubtless furnished them with satisfactory knowledge of their character. To the intrigues and stratagems by which the conductors of this conspiracy have managed to impose on the high officers of the United States Government, are to be attributed the vexatious delays by which the promised redress has been so long withheld.

In complaining of the conduct of these unprincipled men and their associates in crime, the effects of which have been so severely felt by the poorer classes of our people, a scene would be opened of deception and fraud on the one part, and of sufferings and wrongs on the other, which would rouse up, in all good men, feelings of commiseration and indignation to an intensity which, at present, perhaps, would not be desirable. The sorrow occasioned by the frightful amount of suffering, disease, and death, which has gone through our community, which has entered our hearts, and which has preyed upon our spirits, we pass over in silence, and only ask the attention of the Commissioners to those of our grievances and claims which have been recognised by the President.

In his letter of September 20, 1841, he says: "We may be assured that it shall not be again said that a Cherokee has petitioned for justice in vain." He recognises in our treaties with the United States "promises of protection and guardian care," and assures us that "the protection and care so promised shall be given." He is solicitous, as soon as practicable, to relieve the sufferings of "our people." He directs the delegation to assure our people that "not justice merely shall be done them, but a liberal and generous course of policy shall be adopted towards them." The

treaty contemplated, he says, "shall give full indemnity for all wrongs which they may have suffered, establish upon a permanent basis the political relations between them and the people of the United States, guaranty their lands in absolute fee simple, and prescribe specific rules in reference to subjects of the most interesting character to them and their remotest posterity."

In laying before the Commissioners these general views of our claims, which is all that the time will permit us to do, we would respectfully remark, that among the claimants are comprehended the poorer classes of our people, multitudes of whom have suffered great inconveniences, from the want of those necessary comforts which the payment of their claims would have enabled them to procure.

And now, gentlemen, having laid open to your inquiries our whole affairs, we cannot but indulge the hope that, on your report, every obstacle to the immediate action of the Government, in carrying into effect the liberal intentions of the President, will be removed. And, under this persuasion, a delegation, consisting of John Ross, Principal Chief, Richard Taylor, John Looney, T. Walker, Moses Daniel, W. S. Coodey, Joseph Vann, Aaron Price, and John Spears, has been appointed by the national council to proceed immediately to Washington, clothed with full powers to conclude a treaty with the United States, and to make a final adjustment of all unsettled business which may be pending between the United States and the Cherokee nation. The answers to the questions propounded by the Commissioners to the Cherokee authorities are numbered from 1 to 12, and are accompanied by documents marked A, B, D, E, F, G, to which references are made in the course of the answers. They are also accompanied with copies of a correspondence with General Taylor, numbered from 1 to 9.

All which is respectfully submitted.

We have the honor to be, with great respect, gentlemen, your very obedient servants,

JOHN ROSS, *Principal Chief.*

GEORGE LOWREY, *Assistant Principal Chief.*

R. TAYLOR,

JOHN LOONEY, his × mark,

T. WALKER, his × mark,

EAGLE, his × mark,

PHEASANT, his × mark,

} *Executive Council.*

R. JONES, *Adj. Gen. U. S. A.,*

R. B. MASON, *Lt. Col. U. S. A.,*

P. M. BUTLER, *Esq., U. S. Agent,*

} *U. S. Commissioners.*

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A.

#### PAPERS ON SALINES.

##### No. 1.

*Statement in reply to John Rogers and others, respecting salines, received from the Cherokee authorities, January 10, 1845.*

In reply to the complaints of John Rogers and others as to the passage and enforcement of the act of 30th October, 1843, respecting the salines, it



is stated, as reference to the action of the Cherokee authorities on this subject, at different times, will establish :

1st. That, by a law of the Western Cherokees, passed in 1829, *all salines* within the limits of the Cherokee nation (except the one granted to George Guess by the treaty of 1828) are declared to be the *property of the nation*, and so recognised by the laws of 1833, 1841, and 1843.

2d. That the law of 1833, passed by the Western Cherokees, declares, "that no person or persons shall have the right to work a saline in the nation without obtaining a *lease* for such purpose from the *national council*;" that no lease should be given for a longer term than five years; that a fixed sum for which any saline might be leased must be paid annually, for the benefit of the nation; and that a violation of the law effected a forfeiture of the lease and all improvements of the lessee.

The sinking of wells also within a certain distance of any saline was prohibited; and no wells have been sunk, unless there were indications of salt water, or within a short distance of some spring. The well claimed by Mrs. Webber was *bored by the whites*, before this country ever came into the possession of the Cherokees, by whom it was also declared to be public property after emigrating.

In view of these facts, it is not evident in what way injustice has been done any one by the act of 1843, as its provisions are in all respects the most liberal that have ever been enacted on that subject. The complainants will receive ample remuneration for all improvements they may have made within a half mile of any saline.

The title to all salines vesting in the nation, the authorities had not only the right, but it was their duty, to make such disposition of them that they would become profitable to the nation at large. For several years previous to 1843, the salines were in the possession of the complainants, by whom no *rent* whatever, excepting in one year, was ever paid into the national treasury. They were a source of profit or benefit to no one, not being made to yield a supply of salt, at the most exorbitant prices, sufficient to meet the demands of our own people. To remedy this state of things, and to do an act of justice to the public, every individual of which has a title to them as valid as the complainants themselves, who had long since forfeited their *leases*, even under the laws of the "old settlers," the salines have been leased to responsible citizens, and will henceforth yield an annual revenue of several thousand dollars to the public treasury, and greatly benefit our citizens by decreasing the price of salt.

No. 2.

TAHLEQUAH, CHEROKEE NATION,

November 14, 1844.

SIR: In accordance with our commission and instructions received from you, we have the honor, herewith, to report to your excellency, and submit the accompanying valuations of improvements at the salines, lately leased out to citizens of the Cherokee nation, according to an act passed 30th of October, 1843, by the national council. You will perceive, from the list of valuations, that each work and improvement is distinctly de-

scribed and separately named, in as short a compass as possible, and the valuations thereon made to the owners or of the then occupants of the salines. In the performance of this arduous duty, we have endeavored to do the most ample justice within our capability, in our inexperienced knowledge of the various kinds of improvements, and meeting with perplexing difficulties in arriving at their just value; but having used every effort within our means to gain information from persons acquainted with and having knowledge of such improvements, examining also some bills of costs, and taking into consideration the wear and decay of works, we have, in our opinion, given such valuations as will be considered just and reasonable, doing equal justice to the owners of improvements as well as to the nation, with conscientious anticipations that it will meet general approbation. We would here notice the loss and death of our associate in this important business, the much lamented Jesse Bushyhead, and we here mingle our lamentations and deep reverence so mournfully expressed by our fellow-citizens. The deceased accompanied and continued with us throughout the valuations.

JAMES M. PAYNE,  
GEORGE HICKS,  
*Valuing Agents.*

I do certify that this is a true copy, extracted from the original, this 11th January, 1845.

ALLEN ROSS, *Secretary.*

### No. 3.

The improvements at the Grand Saline are all valued; they are immediately connected with the works, and all within the reserve, viz:

#### *Valuation of the improvements at the Grand Saline.*

One hewed log house, weather boarded at the ends with sawed lumber, and plastered inside and overhead, and plastered outside on two sides, size 18 feet by 24 feet, one and a half story high, with two porches of ten feet wide each, banistered all round, good planed, tongued, and grooved flooring below and above, three glass windows below and one above, one stairway, and one stone chimney, with two fireplaces, shingle roof - - - - -	\$500 00
One smoke house, of hewed logs, one story high, 17 feet by 18 feet, with a nailed board roof - - - - -	30 00
One kitchen, of hewed logs, 18 feet by 19 feet, of excellent wall, slab floor, half stone and half brick chimney, and old board roof - - - - -	80 00
One dining house, of hewed logs, one story high, 17 feet by 18 feet, good plank floor, nailed board roof, two doors, and one brick chimney - - - - -	100 00
One yard lot, containing one acre, staked and rail fence, with posts and gate - - - - -	10 00

Two cow lots, containing one patch of two acres and a garden of half an acre, all staked and ridered fencing—total, three and a half acres, at \$6	\$21 00
One house wall, hewed down, 18 feet by 20 feet, plank floor, with nailed board roof, one wooden chimney, one door	40 00
One crib, of round logs, 10 feet by 20 feet, high wall, with an indifferent roof; and one new crib, 10 feet by 20 feet, of round logs, no roof; one old crib, 12 feet by 16 feet, with an indifferent roof, averaged two at \$15 each, and one at \$10	40 00
Two very old stables, of round logs, with an entry of 10 feet, one of 15 feet by 18 feet, one of 15 feet square, with a shed of 10 feet at one end and front of one stable, and an entry, very old roof, the whole valued at	16 00
One spring house, of hewed logs, 12 feet square, shingle roof, good new building, and spring lot	30 00
One horse lot, containing three-quarters of an acre, and a garden, also of three-quarters of an acre, well staked and ridered fencing, at \$5 each	10 00
One reservoir to contain the salt water, an embankment of earth and two logs high, 40 feet wide and 80 feet long	8 00
One salt house, walls hewed, 16 feet by 18 feet, plank floor and good roof	40 00
One shop house, logs hewed, 16 feet by 18 feet, and entry of 12 feet, house and entry half covered	20 00
Two cabins, walls hewed, one of 16 feet by 15 feet, and one of 15 feet by 18 feet, with an entry of 12 feet, with floors and wooden chimney to each, and good roofs	80 00
One salt house, of hewed logs, 18 feet square, good wall, and plank floor, board roof	40 00
Two very old houses, 16 feet square each, with a slab floor and old board roofs, and one blacksmith's shop, (very old,) 18 feet square, no roof	35 00
Five hundred and forty feet of pipe, at 7 cents per foot	37 80
One furnace shed, 20 feet by 80 feet, with sawed rafters, covered with four feet boards, 75 cents per foot	75 00
One salt cistern, 60 feet long, 3 feet wide, and 1½ foot deep, at 50 cents	31 50
One salt cistern, 60 feet long, 1½ foot wide, and 1½ foot deep	24 00
One furnace, in a very tottering and decayed situation, 50 cents per foot	30 00
Thirty posts, set up in the ground for a furnace shed, and eleven plates	10 00
Two hundred and two and a half feet of 1½ inch plank, dressed on the edge, at 3 cents per foot	6 06½
Fifty-seven and a half acres of prairie land in cultivation, well staked and ridered fencing, at \$7	402 50
Three hundred and sixty-two bearing apple trees, at \$3 each	1,086 00
Two hundred and seventeen small apple trees, at \$1 each	217 00
Five bearing peach trees, at \$1 each	5 00

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3,024 86½

I do certify that the above [foregoing] is a true copy of "valuations at the Grand Saline for John Rogers."

ALLEN ROSS, *Secretary.*

JANUARY 11, 1845.

No. 4.

*Extract of a communication from James M. Payne, agent on salines, to John Ross, Esq., Principal Chief.*

The saline at Bluford West's I did not offer, on account of its peculiar situation, (which see on the map or sketch of the place.) I presume the intention of the national council was, that the salines should be leased out to the best advantage, and the proceeds of the same to benefit the nation, as well as doing ample justice to the then occupants of those salines; and, as I had no particular instructions that all the salines in the Cherokee nation should be leased in the present year, therefore, examining the law particularly, I thought myself justifiable in leaving out any of the salines, (see sections 2 and 5 of the act aforesaid,) and have taken the responsibility, under these circumstances. The peculiar situation of Bluford West's saline is such, that it would not have justified any person to have given a reasonable rent, as a large portion of the improvement would not come within the reserve. The salt water being very weak, and the portions of the improvements valuable, I thought proper to recommend to the national council the purchase of all his improvements, (and it was also a request made by the person who was then in possession,) as it would thereby enhance the value to the lessee, and a greater income to the nation would sufficiently justify in the payment of the improvements. I have already cited you to the sketch of the place, and you will see that the large farm will be out of the limits of the reserve, leaving it entirely in the prairie; and, as three other improvements immediately surround the place, that portion of the improvements which will be out of the limits will become entirely useless, and a total loss to the owner; therefore, I thought proper to reserve, for the future disposition of the national council, Bluford West's saline, together with other salines which were not advertised, of which there are two or three in Saline district, four or five in Illinois district, and one in Canadian. I think it would be nothing but in accordance to justice that the nation should pay for all the improvements belonging to West, when the leasing of that saline shall again be authorized by the national council.

JAMES M. PAYNE,  
*Agent on Salines.*

JOHN ROSS, Esq.,  
*Principal Chief.*

We certify that the foregoing is a true copy from the original report.

R. JONES, *U. S. Army.*

R. B. MASON, *Lt. Col. 1st Dragoons.*

NEAR TAHLEQUAH, CHEROKEE NATION, January 4, 1845.



FORT GIBSON, January 13, 1845.

GENERAL: In obedience to instructions received from you, dated Fort Gibson, January 8, 1845, Lieutenant Kirkham and myself proceeded to the salines formerly occupied by Messrs. *Bluford West* and *John Rogers*, and made the examinations and valuation of improvements required by our instructions; the result of which is submitted to you, and is as follows, viz :

*Mr. West's improvements.*

1st. One dwelling house, a story and a half high, built of hewn logs; two good-sized rooms, with a passage between them; porches in front and rear; one room handsomely ceiled, and the whole house well finished. Considering the cost of lumber and building materials in that part of the country, and the price of labor, I think the cost of this house has been about	\$2,000 00
2d. One dining room and kitchen adjoining, both good hewn log buildings, valued at	500 00
3d. Smoke house, root house, negro house, a large log building built for poultry—the whole valued at	200 00
4th. A spring about two hundred yards from the house, with slight improvements, valued at	25 00
5th. A well, thirty feet deep. (They stopped digging before they reached water, in consequence of the law of 1843.) This was valued at	50 00
6th. One corn house; stable, eighty feet in length, with several divisions in it; a small stable and stable yard, troughs, &c.—valued at	300 00
7th. Eighty-seven acres of prairie land, the breaking and fencing of which, from the information we obtained, we considered worth \$5 per acre, the whole amounting to	435 00
8th. Thirty-five acres of cleared wood land, fencing, &c., at \$10 per acre	350 00
9th. Yard about the dwelling house, potato patch, garden, grass plat, &c., about nine acres in all, cleared land, valued at	190 00
10th. Fruit trees, 200 in number, 37½ cents each	75 00

The total of the valuation of the improvements on the farm amounts to	4,125 00
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*Improvements on the "saline."*

1st. The shed for the furnace is 90 feet in length. The trough or cistern is 64 feet in length, 4½ feet in diameter. It was a solid log hollowed out. This trough supplied 52 kettles with water. There was considerable excavation and walling required for the adjustment of the furnace. A salt house stands adjoining the shed. The whole of which was valued at	\$300 00
2d. Eight hundred feet of pipes, for conveying water, valued at	200 00

3d. Close to the well there are two buildings that are intended for the residences of workmen, with the out houses about them; a blacksmith's shop; a building that was used as a salt house; a large shed—the whole valued at - - \$250 00

4th. The well is dug one hundred and twenty-five feet deep, ten feet from the top through gravel, and the remaining one hundred and fifteen feet was made by boring through solid rock. The first ten feet of the well is ten feet square, walled up with logs, and then a frame set in, leaving a space between it and the logs filled up with dirt. The boring through the rock was *two and a half inches in diameter*.

Some of the workmen are now there. The blacksmith says they were employed the greater part of two years in completing it, with generally *four* hands employed to work at the well, and a blacksmith to keep the augers and boring apparatus in repair. When they struck the vein of water that supplies the well, a pipe was fitted tightly in the rock, extending above the level of the ground around the well *fifteen feet*—a point to which the water rises and issues in a *jet* of an *inch* in diameter.

Mr. West, and many gentlemen of whom we made inquiry, say that Mr. West has frequently declared, in their presence, that his expenditures on these salt works were at least *six thousand* dollars.

Every thing about the well and furnace is in a decayed condition, from being left unoccupied, and no care being taken of them; no doubt in consequence of the law preventing Mr. West from continuing the manufacture of salt.

The well itself is in a good condition; the pipes are also good—many of them thrown out of place. Every thing shows that the works were once complete, and in full operation.

In 1811, Mr. West sold the kettles that had been in use, in consequence of an engagement for a partnership between himself and Mr. David Vann in carrying on the salt works. Mr. Vann had gone to the east to purchase new metal, and this Mr. West was expecting. Mr. Vann, however changed his mind, and refused to engage in the business with Mr. West, and did not purchase the kettles. Mr. West then made arrangements to purchase the kettles and continue the work himself, when the law passed, in 1843, prohibiting private individuals from working salt works that were made by law the property of the nation—this saline being one.

We think it would be fair to estimate the labor, money expended, and what Mr. West has been deprived of in not working this saline, at *five thousand* dollars.

We have examined the grounds about this well, and see nothing to induce the belief that this saline would have been of any value, but for the improvements that Mr. West has made. There is nothing that would have shown it a saline but a "lick," which was probably a resort for numerous herds of cattle, which, to an almost equal extent, is found in many other parts of the country. Mr. West's labor and enterprise has made valuable what before was of no value. When he first commenced, he dug *four* wells to the depth of *ten* feet, and struck the rock; he succeeded in getting some water, but not sufficient to justify much expenditure; but patient, persevering industry developed a valuable spring that we do not think the nation had any right to appropriate; and that in taking it away from Mr. West, he should be allowed for it what it is worth, without regard to cost

The per centage of salt in this water is not known, nor have we any means of estimating it; but we have been informed how it compares with the water of other salines. The water at the Union Mission is considered *superior*, but the water at the Grand Saline, occupied by Mr. Lewis Ross, *inferior*.

Mr. Ross gives a rent, for the Grand Saline, of sixteen hundred dollars per year, for *ten* years. Many persons have told us that Mr. West's saline would have rented for the same, had it been in the market. We therefore think that, in dispossessing him of the benefits of his own labor, he should be allowed *fifteen thousand dollars* for his claim on this saline. We had reported to us that Mr. West had cut for his furnace nine hundred cords of wood, that had rotted, and been of no service to him; this we did not examine, as it was spread about over the country, and we thought we could safely allow him for *six hundred* cords; this, at 50 cents a cord, what it cost, would be \$300.

Our estimate of the value of his improvements on the farm, and the actual expenditure on the well, would be \$9,425; and if the value which we consider has been given to the saline by Mr. West's labor, and without this it had no value, be added, which we have put down at *ten thousand* dollars, our valuation, including every thing, will amount to \$19,425.

We found Mr. West's family occupying the improvements on the place, but seemed to be under the constant expectation of being removed under the provisions of the law of 1843. The agent for the nation, appointed to value the improvements on salines, went to this place in 1844, to make a valuation, in order to remunerate the owner, take possession, and lease the saline, but neither valued, took possession, nor leased the saline. We are told that he gave as a reason why he did not, that the improvements were too valuable to be paid for by the Cherokee nation; and this we have had from too many and too good authority to doubt. This saline has a good body of land immediately around it, and a great abundance of wood, and is within one mile and a half of Grand river.

*Captain John Rogers's improvements on the "Grand Saline" are as follows:*

1st. One field, containing twenty-five acres, the greater part of it prairie land, (20 acres prairie land, for breaking and fencing, at \$5 per acre, \$100; 5 acres of wood land, for clearing and fencing, at \$10 per acre, \$50;) the whole amounting to	\$150
2d. One field containing 40 acres prairie land, fenced and cultivated, valued at	200
On the same piece of ground there are 665 fruit trees, generally small, and none of them bidding fair to come to any thing, valued at \$1 each, amounting to	665
3d. One frame storehouse, weather-boarded with clapboards, valued at	150
4th. One frame dwelling house, two log out houses, and yard, valued at	400
5th. Stables, two, large, and made of logs, a shed and stable yard, with a garden adjoining, containing about <i>half an acre</i> , the whole valued at	150

6th. One frame dwelling, with one room very well finished, one dining room, but of little value, one kitchen, one smoke house, one negro house, a yard and garden spot, containing about an acre, two stables, and a yard, the whole valued at	-	-	\$700
7th. One spring house, valued at	-	-	30
8th. Two log houses, made for workmen, close to the furnace, valued at	-	-	100
9th. Two salt houses, valued at	-	-	80
10th. One shed for furnace, 80 feet in length, two cisterns, 56 feet in length, box form, three feet wide and two feet deep, 50 kettles in the furnace, the cost, without the kettles	-	-	300
Captain Rogers, about six years ago, had in operation two furnaces; in the two, he had <i>one hundred and fifteen kettles</i> ; one of the furnaces was abandoned about that time; about fifty of the kettles were taken away at that time by Captain Rogers's son.			
11th. Five hundred feet of pipes, at a cost, for boring, hauling, and laying down, of	-	-	100
12th. But little improvement about the spring, valued at	-	-	15
13th. The kettles are small and thin, and cost about \$12 each. Of the 65 that remained on hand in 1843, those thought to be worth removing were taken away by Captain Rogers's son—the number not known—those left behind are said to have been broken and worn out. We think that an allowance for 20 would compensate for all loss on that score; then the loss on kettles will be	-	-	240
14th. Blacksmith shop and negro cabin, across the saline from the furnace, valued at	-	-	50

The total valuation of the improvements made by Captain Rogers, at the Grand Saline, will amount to - - - - \*\$3,330

There were two wagons and a carriage left at the Grand Saline by Captain Rogers; we did not value them, for they could have been as easily taken away as his horses, had they been of any account; now they are valueless, except for the iron, and that is much injured by rust.

This saline is a natural one, and has been worked until the present occupant took possession, with but a trifling expenditure in procuring water. Captain Rogers had been in possession of this saline for many years; and we are told by good authority that Captain Rogers could have received, a few years ago, for his claim to this saline, twenty-four thousand dollars.

The family of Captain Rogers was removed from this saline by the Cherokee authorities in March, 1844, in accordance with the provisions of the law of 1843, relating to salines.

\* REMARK.—Since the return of the undersigned to Washington, he has received a communication from Lieutenant Colonel Mason, (at Fort Gibson,) one of the Commissioners, from which it is ascertained that the above valuation of *John Rogers's* improvements included property, belonging to *Th. L. Rogers*, not comprised in the estimate of the Cherokee valuing agent.

Captain Woods having computed the value of that portion belonging to *Th. L. Rogers* at \$700, his valuation of *John Rogers's* improvements (\$3,330) is thereby reduced to \$2,630. The same improvements were valued by the Cherokee valuing agent at \$3,024 86½.

R. JONES, Adjutant General.

WASHINGTON, D. C.



His improvements were valued by the Cherokee agent appointed for that purpose, but we did not understand what that valuation was. This valuation has not been paid over to Captain Rogers.

Respectfully submitted.

S. WOODS,  
Captain 6th Infantry.

General R. JONES,  
Commissioner, Fort Gibson, Cherokee Country.

No. 6.

*Extract from the national records of the "Western Cherokees."*

*Resolved by the national committee now in council convened,* That any citizen or citizens of the Cherokee nation, and no other, wishing to embark in the business of salt making, shall first obtain a lease from the chiefs of the nation for a term not exceeding five years; and the person so obtaining the lease must give his bond to the nation for three hundred and sixty-five bushels of salt, payable at the end of every year during the term specified in the lease. And in case the person engaged in salt making shall at the expiration of the term specified in the lease wish to continue in making salt, it shall be his duty to come forward to the council and make his wishes known, and the council then will renew the lease to him for another term, not to exceed the term mentioned in this resolution.

*It is further resolved,* That if any person or persons, having obtained a lease to work any of the salt springs, shall take a white man, not a citizen of this nation, into partnership in salt making, shall forfeit and pay to the Cherokee nation the sum of one thousand dollars, and be debarred from ever working salt springs from henceforth; and the works appertaining to his salt springs shall be subject to the disposal of the chiefs of the nation, in the way and manner they may in their opinion think for the best.

W. WEBBER, *President of the Committee.*

AARON PRICE, *Vice President.*

JOHN BROWN, *Clerk of National Committee.*

OCTOBER 17, 1829.

Approved.

JOHN JOLLY, his + mark, *Principal Chief.*

I certify that the foregoing is a *true copy.*

GEORGE W. LAY,  
*Second Lieutenant 6th Infantry.*

JANUARY 8, 1845.

#### LAW ON SALINES.

1. *Resolved by the national committee and council in general council convened,* That all salines within the limits of the nation are the property of the nation.

2. *Further resolved*, That no person or persons shall have the right to work a saline in the nation without obtaining a lease for such purpose from the national council.

3. *Further resolved*, That the former law regulating the salines of the nation (1829) shall be, and is hereby, repealed, from and after this date.

4. *Further resolved*, That, after the present leases on salines are out, all such salines shall be leased out to the highest bidders; and such bidders shall be entitled to leases on such salines as [they] bid for, by giving their bond and approved security—the rents to be paid in cash annually. And no lease on a saline shall be given for a longer term than five years at a time.

5. *Further resolved*, That all persons getting leases on salines, as above stated, shall furnish their own metal and other preparations necessary for such purposes, (salt kettles, furnace, salt troughs, salt house, and the like, are here meant;) and when their lease runs out, such preparations shall revert to the nation.

6. And when a bond is taken for the rent of a saline, it shall be drawn for double the amount of the annual rent, and made payable to the chiefs, for the benefit of the nation; and when any person or persons having such a lease, and if he or they should fail to pay the rent annually, such person or persons so failing shall forfeit and pay to the nation the amount of their bond. And in case they should violate the laws on salines, or any part of such regulations as are herein mentioned, they shall forfeit their lease, and likewise their metal, and other preparations mentioned in the foregoing fifth article.

7. *Further resolved*, That no others but citizens of the nation shall have the right to lease or rent a saline lying within the nation; neither shall it be lawful for a citizen of the United States to be taken into partnership, or be sharers in a saline, in any way whatever.

8. *Further resolved*, That all the salt now due, and which may be due the nation for the present leases on salines, shall be, and is hereby, valued at fifty cents per bushel, (50 lbs.)—(salt to be issued to individuals excepted;) and such persons as now have leases shall have the right to pay the nation cash, at the above rates, annually, instead of salt.

WILLIAM THORNTON, *President of the Committee.*

MAJOR NELOWEE, *Speaker of the Council.*

TAHLUNTUSKEY, *December 6, 1833.*

Approved, December 6, 1833.

JOHN JOLLY.  
BLACKCOAT.  
WALTER WEBBER.

A true copy.

G. W. LAY,  
*Second Lieutenant 6th Infantry.*

JANUARY 8, 1845.

No. 7.

Mr. Payne, valuing agent on salines, states, January 16, 1844: When in the course of my duty I examined the saline of Bluford West, I ex-

pressly inquired whether there had been salt water on the surface before Mr. West sunk his well. William Alberty, in charge of the property for Mr. West, told me there had been. No claim that this was not a natural saline has ever been made to me or brought before the council. If any such had been made to me, I would have referred it to the council; and if the claim had been proved, I have no idea they would have taken possession of the saline.

JAMES M. PAYNE.

Mr. Payne further referred to Mr. John Drew, who stated that salt had been manufactured at Bluford West's place long before any wells were sunk.

D.

FORT GIBSON, CHEROKEE NATION,

November 9, 1843.

SIR: I have the honor to request that you will deliver to the order of Captain N. Boone, commanding Fort Gibson, the three following prisoners, half-breed Cherokees, namely, Eli Starr, David Reese, and Joseph Starr, accused of the murder of citizens of the United States.

Very respectfully, your obedient servant,

P. M. BUTLER,

*Cherokee Agent.*

JOHN ROSS, Esq., *Principal Chief, Park Hill, C. N.*

FORT GIBSON, November 11, 1843.

SIR: I have to request that you cause to be delivered to Lieutenant Chilton, United States dragoons, the three following named men, citizens of the Cherokee nation, namely, Eli Starr, David Reese, and Joseph Starr, who are charged with the murder of certain citizens of the United States.

Very respectfully, yours,

NATHAN BOONE,

*Captain U. S. Dragoons, commanding.*

JOHN ROSS, *Principal Chief, &c., Park Hill, C. N.*

E.

*Statement of David Carter respecting the trial of Jacob and John West, in the year 1843.*

TAHLEQUAH, CHEROKEE NATION, December 31, 1844.

They were indicted upon the following charges: Of being accessary, as aiders and abettors, to the murder of Isaac Bushyhead; as being accessary, by aiding and abetting, in the assault and battery upon the person of David Vann, with intent to kill; and of being concerned in a conspiracy

against the laws and government of the Cherokee nation, by forcibly taking the papers containing the election returns, and destroying them.

At the time of the trial of Jacob and John West upon the above charges, I was an associate judge of the supreme court of the Cherokee nation, and presided over the court at their trial, and they were both convicted of the above charges; or, in other words, a verdict of guilty was brought in by the jury of the above charges, and sentence was passed by me, as the presiding officer of the court, according to the provisions of law. Jacob West was executed; John West, through the sympathies of the people—considering his age, the condition of his family, and the promises that he made to be at peace and quiet forever thereafter—a petition was signed recommending him to executive clemency, and he was relieved from the sentence of *death*. He was punished for *conspiracy*, with stripes, according to law.

As it respects the political views of the jurors that sat upon the case of Jacob and John West, I am unable to say, having had but little or no acquaintance with them previous to this transaction. The most of the citizens of that vicinity and district, that I had any acquaintance with, were concerned in the examination of the case, as witnesses or otherwise; and I believe that in all respects the said Jacob and John West had as fair and impartial a trial as any other citizen of the Cherokee nation could have had under similar charges.

DAVID CARTER.

F.

*Statement in reply to the complaint of John Duncan being deprived of property by the authorities of the nation.*

With regard to the complaints of John Duncan being deprived of property by the "authorities of the nation," the facts are about as follows:

Dorcas Duncan, John Duncan's mother, some years ago had a reservation claim allowed by the United States, and drawn by the said John Duncan, who, after depriving the family of the use of this sum for more than twelve years, was sued in 1842 by James Kell, the administrator of Dorcas Duncan's estate, and obtained a judgment against him for \$1,140. Near about the time the judgment was obtained, a law, called *the stay law*, was passed by the national council, debarring the collection of debts for two years. After the decision of court against Duncan, he (Duncan) remarked that "he had two years to go upon, but before the expiration of that time he would have all his property over the line, and *then they might whistle for it if they chose*." The administrator, hearing of this, got out an attachment immediately, hoping to secure at least a sufficiency of his property to cover the debt; but he failed. All he could secure before it was run across the line was a negro and two horses.

It is worthy of remark, also, that John Duncan and James Kell, and the greater part of the jury who decided against Duncan, were of the "treaty party."

[The complaint, as such, is frivolous, and, when made to the Commissioners, was with a view to deceive.

R. JONES.]



## G.

*Act deposing John Brown and John Rogers from the office of chiefs.*

We, the undersigned, citizens of the Cherokee nation west, in Salisaw district, having met together for the purpose of taking into consideration the difficulties existing between the Eastern and Western Cherokees, our chiefs and council having failed to settle or effect a reunion of the two people together, to the mutual satisfaction of both parties, but being thrown into the hands of the United States for the settlement of our difficulties, and giving up the lives of many at their disposal, as it was not the voice of the majority of the old settlers, we firmly believe, will terminate to the utter destruction of the whole Cherokee people: Now, therefore,

*Resolved*, That Aaron Price, Young Elders, Major Pullum, and Deer Track, are hereby authorized to protest, in our behalf, against the decision of the late council of the Western Cherokees, or of the United States taking any part thereof; and furthermore, to bring about peace, and forming a speedy reunion of the two nations, also to stop the further effusion of the blood of our fellow-brethren, and to come on terms of amity, justice, and satisfaction to all, for the future prosperity of the Cherokee nation at present, and the rising generation to come.

Charles Campbell.  
Witch Jestice.  
Ned Jestice.  
Packinham.  
Lizard.  
Jesse French Jack.  
Feather.  
Squire Baldridge.  
George Hickman.  
Peter Emery.

Tomahawk.  
Ridge.  
Neely McDonald.  
Juntake.  
Oo-wa-sah nah-nas-kee.  
Cat Fields.  
Ka-doo-dake.  
Six Killer.  
Tah-kuh-yah Justice.  
James M. Payne.

AUGUST 19, 1839.

Whereas the entire removal of the Cherokee people from their ancient homes to this country forms an important crisis in their affairs, and which renders a reunion of the two portions of the people thus brought together indispensable to their general welfare: And whereas the most sanguine expectation was cherished that such union would be speedily effected, and a system of government established, with just and equitable laws, adapted to the present condition of the whole people: And whereas a general council, by joint call of the authorities of both communities, was appointed for that purpose at Ta-ka-to-ka, which met on the 3d day of June last, but the design of which council was defeated by the improper course of Messrs. John Brown and John Rogers, in reference to the objects for which said council was convened: And whereas they have continued to oppose the friendly reunion of the two parties, which was so generally desired and expected, and, by misrepresenting the views and wishes of the late emigrants, have endeavored to create estrangement and misunderstanding and party feeling, and have, under various pretenses, refused to meet the late emigrants, and exerted their influence to keep back the people of the "old settlers" from meeting them for friendly conference on this subject, in which the interest and happiness of the whole people are so deeply con-

cerned: And whereas, they called a council at Tahluntuskey, on the 22d July, 1839, for the avowed purpose of consulting with the people in reference to their attending the national convention, and co-operating with the people in maturing and establishing a government suited to their condition, but, instead of adopting any means tending to union and the promotion of the general welfare, they have repelled every such effort, both of the late emigrants and of the old settlers, and have evinced their sole object to be, to fasten themselves on the Cherokee people as chiefs, and to exercise arbitrary authority, without regard to their voice or the general welfare: And whereas, in identifying themselves with those individuals known as the Ridge party, who, by their conduct, have rendered themselves odious to the Cherokee people, they have acted in opposition to the known sentiments and feelings of that portion of this nation known as "old settlers," frequently and variously and publicly expressed: And whereas their appeal to the United States, dated Tahluntuskey, August 9, 1839, on behalf of the old settlers, to be sustained in the enjoyment of their rights and in the execution of their laws, is altogether uncalled for, and unauthorized by the people of this nation, and an outrage upon their rights: Therefore,

*Resolved by us, the undersigned citizens of the Cherokee nation, known as old settlers, in council assembled,* That the aforesaid John Brown and John Rogers have acted in a manner unworthy of the office of chiefs, and have assumed powers incompatible with the liberties of the Cherokee people, and in various instances have perpetrated acts unauthorized by the laws and usages of the nation.

*Resolved,* That the said John Brown and John Rogers have, by their unworthy and unlawful conduct, betrayed the trust reposed in them, and forfeited the confidence of the Cherokee people; and therefore we, as old settlers, in the exercise of our inalienable rights, do collectively and individually declare our disapprobation of their conduct.

Wherefore, we, the people of the Western Cherokee nation, in national council assembled, in our own name, and by the authority and in the exercise of our primary and plenary powers, do, for the causes herein set forth, depose and remove the aforesaid John Brown and John Rogers from the office of chiefs of the Western Cherokee nation; and, by the authority aforesaid, the said John Brown and John Rogers are hereby deposed, and disqualified from exercising in any manner the powers and functions of chiefs of the Western Cherokee nation.

In testimony whereof, we affix our signatures. Done at the convention ground, this 23d day of August, 1839.

John Looney, *President.*  
George Gress, *Vice Pres't.*  
Tobacco Will, *Vice Pres't.*  
Young Wolf.  
George Brewer.  
Pheasant.  
David Melton.  
Thomas Candy.  
Moses Parris.  
Lewis Melton.  
Wasp Emory.  
Watt Graves.  
Tah-la-see-nee.

Jesse Russel.  
Kee-nah.  
Robert Brown.  
Beaver Tail.  
As-to-le-tah.  
John Drew.  
Daniel McCoy.  
Josiah Wicked.  
Leneord Fox.  
Logan.  
John Rogers.  
David Nightkiller.  
Ootah-ne-yehn-tah.

John R. Nicholson.  
 Walter A. Nicholson.  
 James Hughes.  
 Standing Man.  
 Tah-cha-la-nah.  
 William McIntosh.  
 Mistaken Gritts.  
 Oo-na-too-tee.  
 He-sah-tes-skee.  
 Jesse Wolf.  
 Sah-kee-yah.  
 Benjamin Terrapin.  
 Chee-kee-lee-le.  
 John Deerhead.  
 Ralph Graves.  
 Little Wattee.  
 George Bushyhead.  
 George Campbell.  
 Head Eater.  
 James Deerhead.  
 Lacy.  
 Johnson.  
 Ska-yah-too-kee.  
 Te-tah-nah-skee.  
 Moses Gritts.  
 The Swan.  
 Isaac Vann.  
 Buffalo.  
 Black Haw.  
 Oo-la-na-he-he.  
 John Wayne.  
 Black Jack.  
 Samuel.  
 Otter.  
 Charles Otter.  
 Kah-nah-wo-kee.  
 Oo-la-nah.  
 Ah-ke-lah-ne-kah.  
 Oo-he-sa-tah.  
 Crying Bear.  
 Choo-chee-chee.  
 Se-groo-ye.  
 Standing Fence.  
 Tahnoo-we.  
 Te-ta-nus-kee.  
 Young Mulberry.  
 Ezekiel.  
 David Tucker.  
 Che-quoh-kee.  
 Ta-na-to-lee.  
 Crow Mockers.  
 Kah-seh-lawee.

Ah-soo-ge-ske.  
 Ah-ya-loo-ne-ya-kee.  
 The Seed.  
 The Duck.  
 Ta-ka-kee.  
 Ah-to-lu-nee.  
 Gah-he-nah-hee.  
 Gah-luh-gah-lo-os-kee.  
 Te-kuh-tah-us-kee.  
 Te-kuh-che-ska-le-skee.  
 Leroy H. Tiner.  
 M. Scrimsher.  
 Thomas L. Rider.  
 Oo-la-yo-hee.  
 The Bear.  
 Ooya-skalla.  
 Thomas Davis.  
 Peter Barby.  
 Oo-che-yah.  
 Noonday.  
 Screech Owl.  
 Alligator.  
 Catch Him.  
 Big Acorn.  
 Long Shell Turtle.  
 Chane-sene.  
 Beaver Carrier.  
 Short Arrow.  
 Chawe Skah.  
 To-choo-la-nah.  
 George Miller.  
 Jeremiah Evarts.  
 D. R. Coodey.  
 James V. Taylor.  
 Joseph Drew.  
 Joseph B. Byrd.  
 Moses T. Smith.  
 Riley Keys.  
 Leroy Keys.  
 Samuel Brady.  
 Looney Riley.  
 Ned Wicked.  
 John Brown.  
 Choowalooke.  
 Yonoo-wo-ye.  
 Te-ya-nee-skee.  
 Sa-ke-yah.  
 Big Pheasant.  
 Ah-ka-yah-wa-hee.  
 Ah-squa-le-ta-kee.  
 Te-ka-e-ske.  
 Oo-ya-ska-wo-tee.

W. S. Coodey.  
 John Spears.  
 Benjamin Downing.  
 Richard Coodey.  
 Thomas Terrell.  
 Oo-ta-ne-too-tah.  
 Joe Spears.  
 James Wilkerson.  
 Johnson Sanders.  
 Soo-laggesee.  
 Kah-nah-skawee.  
 Swimmer.  
 Oo-te-tah-ah.  
 Looney Price.  
 Tah-noo-we.  
 Choo-wa-lookee.  
 George Lightningbug.  
 Charles Gourd.  
 Young Gourd.  
 Robert Colston.  
 Caw-ah sa-kah.  
 John Boston.  
 John Fox.  
 Lewis Keys.  
 John Nave.  
 Arch Coodey.  
 Thomas Wolf.  
 John Wolf.  
 W. P. Davis.  
 Rolla Roebuck.  
 John Otter.  
 Martin Whirlwind.  
 Isaac Bushyhead.  
 S. M. Taylor.  
 John Terrell.  
 Gun Rod.  
 Dick Toney.  
 George Fields.  
 Charles Coodey.  
 Enjavine Coodey.  
 Solon Fox.  
 Choo-so-le-tah Guess.  
 Choo-squah-lun-tah.  
 Hungry Man.  
 Singing Bird.  
 Jackson.  
 Oo-toh-squah-tah.  
 To-te-kan-nah.  
 Oo-cla-hah Benges.  
 Ne-caw-lus-tah.  
 Sa-la-te-ske.  
 Four Killer.

Johnson.  
 Lacy.  
 Pha-ne-wa-nah.  
 Oo-ta-le tah.  
 Big Dollar.  
 William Hicks.  
 Thomas Smith.  
 George Dromgoole.  
 John C. McCullough.  
 William Horn.  
 Robert S. Horn.  
 John Horn.  
 Charles.  
 Che-nah-que.  
 John Toney.  
 Robbin.  
 Grey Head.  
 Too-nah-na-lah.  
 David Timson.  
 George Butler.  
 Young Puppy.  
 Rattling Gourd.  
 Richard Ratliffe.  
 Eight Killer.  
 Oo-go-se-ta.  
 Aaron Price.  
 Major Pullum.  
 Young Elders.  
 Deer Track.  
 Turtle Fields.  
 July.  
 The Eagle.  
 Crying Buffaloe.  
 Choo-yun-kee-stee.  
 Johnson B. Fileds.  
 The Humming Bird.  
 Otter Lifter.  
 Oone-che-kee-skee.  
 Alexander.  
 Oowa-wo-se-te.  
 Oowatee.  
 Jack.  
 Dennis Biggs.  
 Thomas F. Taylor.  
 Kah-lo-la-tee.  
 Kane-ta-che-yah.  
 Ah-tah-nah-e-skee.  
 Tee-ka-to-skee.  
 Choo-wa-loo-kee.  
 The Leech.  
 Thomas Sanders.  
 Toonayhee Sanders.



Nelson R. Harlin.  
 William Nicholson.  
 John Coodey.  
 Joseph Coodey.  
 Joshua Robbins.  
 Levi Robbins.  
 Henry G. Parris.  
 Edward Tucker.  
 Thompson Tucker.  
 Jacob Bushyhead.  
 James Coodey.  
 J. Vann.  
 J. M. Lynch.  
 Joshua Buffington.

O-loo ke-lah.  
 David Downing.  
 Dahkanasene.  
 White Killer.  
 Lewis Downing.  
 Samuel Downing.  
 James Mackey.  
 John Sheppard.  
 Tahnostelee.  
 Thomas Thumb.  
 Crying Wolf.  
 Young Pig.  
 Isaac E. Nicholson.

A true copy from the original, in the executive office.

JOHN ROSS, *Principal Chief.*

PARK HILL, *January 10, 1845.*

No. 1.

PARK HILL, C. N., *September 20, 1843.*

SIR: The object of this communication is to request your co-operation in arresting and bringing to trial Thomas Starr, Bean Starr, Ellis Starr, and Arch. Saunders, the persons charged with the murder of Mr. and Mrs. Vore, Mr. Kelly, and another citizen of the United States.

I regret very much this outrage, and need not assure you that it is the act of a few violent and desperate individuals. Companies of Cherokees have been in pursuit of them, but they have succeeded in making their escape across the line into the State of Arkansas. From evidence, satisfactory to my own mind, I am induced to believe that these and other fugitives from justice meet with encouragement and protection from some of the citizens of that State. I am also informed that individuals of this nation are in the habit of holding councils about Fort Smith and Van Buren; and since their objects cannot be other than to plot mischief, and produce an unhappy state of feelings between citizens of Arkansas and of this nation, I have to request that you will use your authority to break up these assemblages. I have full confidence in the ability and determination of the authorities of this nation to maintain the supremacy of our laws against all evil doers. Mr. Duval, the acting agent of the United States, is now near the line; Mr. William S. Coody has also just started for the line, and will communicate to you further particulars.

I have the honor to be, sir, your obedient servant,

JOHN ROSS,

*Principal Chief of the Cherokee Nation.*

Brigadier General Z. TAYLOR,

*Commanding Southwestern Division,*

*Headquarters, Fort Smith, Arkansas.*

No. 2.

## HEADQUARTERS SECOND MILITARY DEPARTMENT,

*Fort Gibson, September 26, 1843.*

SIR: Brigadier General Taylor, commanding the second military department, has been informed by the attorney of *Jacob West*, that application has been made by said West, now awaiting trial in Saline district for murder, to *Benjamin Johnson*, judge of the United States district court for the district of Arkansas, for a writ of habeas corpus to remove him from the jurisdiction of the Cherokee courts; said West claiming to be a citizen of the United States, and, under the intercourse law of 1834, only amenable to the courts thereof.

The decision of Judge Johnson is expected by the General on the 28th instant, and will decide the question whether West is to be tried before the Cherokee or United States courts. Should he refuse to grant the writ in question, West's trial must go on before the Cherokee court. If it be granted, it will be served, and West must be delivered to the United States authorities. The commanding general, therefore, desires that the trial of Jacob West may be postponed until the decision of Judge Johnson can be received and communicated to you.

I am directed by the General to say, that he wishes this delay in West's trial, in order to have the question at issue decided by the competent legal authority. In all cases where the Federal and Cherokee laws do not conflict, it will always afford him the greatest pleasure to aid the civil authorities of the nation in the enforcement of their laws by the means placed in his hands. The General will thank you to answer this communication by the return of the express.

I am, sir, very respectfully, your obedient servant,

W. W. S. BLISS,

*Assistant Adjutant General.*

Judge HICKS,

*or the Presiding Judge of Saline District.*

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No. 3.*Reply of court to General Taylor.*

GRAND SALINE, C. N., *September 28, 1843.*

SIR: I have just received your communication by the hand of your express, addressed to the presiding judge of Saline district, relative to Jacob West, whose case is now pending before the court on charge of murder.

It appears, from your letter, that the said Jacob West claims to be a citizen of the United States, and under the intercourse law of 1834, and to be amenable to those laws only.

I would state that Jacob West has resided in the Cherokee nation, as a citizen thereof, between thirty and forty years, enjoying the benefits of the laws of the nation in every respect during the above period, and has raised a tolerable numerous family of Cherokee children since his residence among us; and although his wife is dead, he is still a citizen of our country, by

virtue of our laws and customs. I would be glad to comply with General Taylor's request as to the postponement of the trial of Jacob West; but the officers of our country, being sworn to support the laws and constitution of the Cherokee nation, it would be out of my power to stop the proceedings of the court, unless directed by the executive department of the Cherokee nation so to do. Our laws view Jacob West as a citizen of the nation; and he having committed the offence for which he is charged in the Cherokee nation, makes it incumbent upon the judiciary of our country to take notice of his conduct.

Judge Johnson's opinion on a case of this kind, which was published in April, 1843, in the Arkansas Intelligencer, supports the view I have taken of Jacob West's case, now pending; which is, as near as recollected, in these words: That where a citizen of the United States expatriates himself by going into the Indian country to reside as a citizen thereof, he is subject and amenable to the laws of the same.

If Jacob West were nothing more than a transient citizen among us, the case would be different; but his expatriating himself from his own country, marrying among the Cherokees, raising a family, remaining among us, participating in our funds, enjoying the benefits of treaties, make it appear he is a citizen of the country.

From what I have stated, General Taylor will be able to see why Jacob West is held amenable to our courts.

I am yours, with much respect,

DAVID CARTER,

*Associate Justice of the Supreme Court.*

Brigadier General TAYLOR,  
*Commanding.*

—  
No. 4.

HEADQUARTERS SECOND MILITARY DEPARTMENT,

*Fort Gibson, September 28, 1844.*

SIR: You will find enclosed a copy of a letter addressed to the presiding judge in Saline district, requesting him, for the reasons stated, to postpone the trial of Jacob West until an answer could be had to his application for a writ of habeas corpus. An answer has just been received from Judge Carter, stating that it is out of his power to stay the proceedings of the court, unless so directed by the executive of the nation.

I deem it very important to have the question at issue decided, once for all; and it cannot be better done than by the action of Judge Johnson on the application. An answer is expected daily; and I have to request that you will give instructions to stay legal proceedings in the case of Jacob West until the 3d of October, beyond which time I will not wait for Judge Johnson's decision, but leave the Cherokee laws to take their course.

It is proper to state that the judge in Saline district was addressed *directly* on this subject, presuming that he had authority to postpone the trial, and that it was unnecessary to trouble the executive in relation to it.

The recent murder of Vore's family has given rise to many rumors, from which it is difficult for me, in the absence of the agent, to gather authentic matter for a report to Washington. I will thank you to communicate what-

ever information you may deem proper to impart in relation to this outrage, and all the circumstances attending the pursuit of the individuals supposed to have committed it, as well as any other intelligence calculated to correct the erroneous and mischievous impressions too often derived at Washington from the crude representations of the public prints.

I need not say that I am always most ready, with all the means at my disposal, to assist the constituted authorities of the Cherokees in the enforcement of their laws, and in the apprehension and bringing to justice of all offenders, particularly in cases of murder, whether of whites or Cherokees.

I will thank you to answer at least the first part of this communication by the return of the express.

I am, sir, very respectfully, your obedient servant,

Z. TAYLOR,

*Brig. Gen. U. S. Army.*

JOHN ROSS, Esq.,

*Principal Chief Cherokee Nation, Park Hill.*

No. 5.

PARK HILL, C. N., *September 29, 1843.*

SIR: I have just had the honor to receive your communication of yesterday's date, enclosing a copy of the one addressed to the presiding judge at Saline district, stating that you have been informed by the attorney of *Jacob West* that application has been made by said West, now awaiting trial in Saline district for murder, to Benjamin Johnson, judge of the United States district court for the district of Arkansas, for a writ of habeas corpus to remove him from the jurisdiction of the Cherokee court, said West claiming to be a citizen of the United States, and, under the intercourse law of 1834, only amenable to the courts thereof. You had therefore requested that the further proceedings of the court in the trial of *Jacob West* should be suspended until the decision of Judge Johnson be had on the case. That Judge Carter had replied, it is out of his power to stay the proceedings of the court, unless so directed by the executive of the nation.

You have therefore requested me to give instructions to stay legal proceedings in the case of *Jacob West* until the 3d of October next.

You will perceive, by referring to the 2d article of the constitution, (a copy of which I herewith send you,) that the executive has no authority to interfere in this case, in the present stage of the proceedings of the court. I agree with you as to the importance of the question at issue being settled by the competent authorities both of the United States and the Cherokee nation, if it is now to be considered as unsettled, as the jurisdiction of our laws over white men married to Cherokee women, for offences committed by them upon citizens of the nation within the limits of the Cherokee country, has never been heretofore doubted.

It will afford me pleasure at all times, as far as in my power, to co-operate with you in such matters as may come within our respective duties. As regards the subject of the late atrocious robbery and murders committed in the nation, measures have been promptly taken to apprehend and bring to justice Thomas and Bean Starr and Ellis Starr, who are



charged with having perpetrated the crime. Large parties, in various directions, are now in pursuit of them. Having been corresponding directly with the acting agent on this subject, I had taken it for granted that ere this you had been fully advised by him of our proceedings in the matter. Not having time at present to report the case fully, without detaining your express too long, I will defer doing so until I can prepare a special communication on the subject, and send it to you by express. Ere this comes to hand, you will doubtless have received my letter of to-day, by Mr. Nave, who has accompanied Sheriff Brown to the fort, in charge of a man named Gearing.

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

JOHN ROSS,

*Principal Chief of the Cherokee Nation.*

Brig. Gen. Z. TAYLOR,

*U. S. Army, commanding Fort Gibson.*

No. 6.

HEADQUARTERS SECOND MILITARY DEPARTMENT,

*Fort Gibson, October 3, 1843.*

SIR: I am directed by the commanding general to enclose you a copy of an order which he has felt it his duty to issue, to provide more effectually for extending assistance to the authorities of the nation in the enforcement of their laws.

Judge Johnson having refused to grant a writ of habeas corpus on the petition of Jacob West, the General will leave the laws of the nation to take their course, as intimated in his former communication. He leaves this day for Fort Smith.

I am, sir, very respectfully, your obedient servant,

W. W. S. BLISS,

*Assistant Adjutant General.*

JOHN ROSS, Esq.,

*Principal Chief Cherokee Nation, Park Hill.*

No. 7.

SPECIAL ORDER No. 24.

HEADQUARTERS SECOND MILITARY DEPARTMENT,

*Fort Gibson, October 3, 1843.*

I. The recent murders and other outrages perpetrated in the Cherokee nation render it necessary to provide more freely for the employment of the military force in sustaining the Cherokee authorities in the execution of their laws.

II. In case of any murder committed in the nation, either upon whites or Cherokees, the commanding officer of Fort Gibson, when called upon by the Cherokee agent or acting agent, will promptly use any portion of the force under his command to pursue and arrest the offenders, and bring

them to justice; the Cherokees, in such cases, furnishing guides and means of identifying the criminals. He will especially give every aid in his power to secure the perpetrators of the recent murders of Mr. Vore's family and a white man named Kelly.

III. All councils or assemblages attempted to be gotten up contrary to the laws and customs of the Cherokees, or having for their object to obstruct the operation of the Cherokee laws, will, on the information of the agent, be at once dispersed, by the application of force, if necessary.

IV. Should intelligence reach the agent of suspected plots or conspiracies against the laws and good order of the nation, the commanding officer of Fort Gibson will, upon his application and indication of the persons suspected, cause them to be arrested and kept in confinement, until they can be turned over to the Cherokee authorities if citizens of the nation, or to the marshal if citizens of the United States.

By order of Brigadier General Taylor :

W. W. S. BLISS,  
*Assistant Adjutant General.*

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No. 8.

HEADQUARTERS SECOND MILITARY DEPARTMENT,  
*Fort Smith, October 5, 1843.*

SIR: Your communication of September 20, requesting my co-operation in arresting the persons charged with the recent murders in the nation, did not reach me until my arrival at this place yesterday.

The orders issued by me just before leaving Fort Gibson, with a copy of which you are furnished, will show that I am fully disposed to co-operate with the constituted authorities of the nation in maintaining law and order within its limits. It is only necessary for the agent to represent to the commanding officer of Fort Gibson that military force is required, to have it promptly furnished. I am satisfied that every exertion is made by the authorities of the nation to bring to justice the murderers of Mr. Vore's family.

In reply to the part of your letter relating to councils held in this neighborhood, I will say that I have been aware of such movements; but, as you will readily understand, I have no authority to interrupt them within the State. The last paragraph of my order above referred to will, it is hoped, provide effectually against any unlawful assemblages within the nation. There is, I fear, too much reason to believe that much of the excitement in the Cherokee nation has proceeded from evil-disposed people in the State; and that to the same cause may perhaps be traced many of the recent robberies and murders in the nation.

I am, sir, very respectfully, your obedient servant,

Z. TAYLOR,  
*Brevet Brigadier General United States Army.*

JOHN ROSS,  
*Principal Chief of the Cherokee Nation, Park Hill, C. N.*

No. 9.

## EXECUTIVE DEPARTMENT, CHEROKEE NATION,

*Tahlequah, October 30, 1843.*

SIR: I have the honor to inform you that one of the police companies of this nation, under the command of Captain Johnson Foreman, has succeeded in finding and arresting Moses Alberty, the person accused of having murdered a Mr. Long, a citizen of the United States, in Flint district, about the 30th of December, 1840, or the 1st of January, 1841. Captain Foreman deserves much praise for this arrest, for strong efforts at resistance were made by Alberty, who had a rifle in his hands, and was well armed in other respects.

The mild course first pursued by the captain imminently endangered his own life and that of some of his company. And it was not until he had levelled his rifle, and made violent threats, that the captain fired upon him, and shot him through the thigh; the desperado then surrendered himself to the company, and was brought to this place. I have this day ordered Captain Foreman to take him immediately to Fort Gibson, and turn him over to the United States agent for the Cherokees, or the commandant of that post, in order that he may be tried under the laws of the United States for the offence with which he is charged.

Permit me at this late date to acknowledge the receipt of your favor of the 3d instant, together with a copy of your special order No. 24, and also your communication from Fort Smith, dated the 5th instant.

I trust that the return of the acting agent to Fort Gibson previous to your departure for Fort Smith, and his full report to you of his proceedings on the frontier, and the operations of the Cherokees in search of the Starrs, who are accused of the murder of Mr. Vore and wife, and a white man named Kelly, will excuse me for not having made the report on the subject which I had promised.

Although the Starrs still find friends among the whites of Arkansas, and among their numerous connexions in the nation, the vigilance of the police companies has not in the least abated, and their best efforts are still used to ferret out and bring them to justice. Our exertions may be for a time baffled by the means alluded to, but I trust they will be eventually found, and made to suffer the punishment their cruel conduct so strongly merits.

I have the honor to be, sir, most respectfully, your obedient servant,

JOHN ROSS,

*Principal Chief.*

Brigadier General TAYLOR,

*Commanding United States Army, Headquarters, Fort Smith.*

## V.

*Report of Captain A. Cady, 6th Infantry, of his examination of the Cherokee laws.*

FORT GIBSON, *January 15, 1845.*

SIR: Agreeably to your request, I have examined the constitution and code of laws of the Cherokee people that you placed in my hands; and I

have the honor to submit the following, as the conclusions to which I have arrived.

The constitution is represented as having been adopted by a national convention of the Cherokee people on the 6th of September, 1839, after the union between the Eastern and Western Cherokees, formed on the 12th of July of the same year. Most of its provisions appear to be derived from the Constitution of the United States and from those of the States, so far as applicable, with such modifications as were evidently required to adapt them to the usages and habits of the people. It is republican in character, strongly democratic in fact, the people retaining a large share of power in their own hands. Two features of this instrument deserve attention—the retention by the nation of its lands as *common property*, and the prohibition to individuals to dispose, “in any manner whatever,” of the *improvements* they possess to any but citizens of the nation.

In examining the laws in this collection, which appears to comprise all or nearly all that have been passed since the adoption of the constitution, in September, 1839, up to the close of the session of the national council, in January, 1844, I have been forcibly impressed with the moderation, fairness, and evident regard to the general and individual rights and interests of the people affected thereby, that characterize the most of them. I refer in this, of course, to those of a general nature—such as for the organization of the judiciary, the apportionment of representation, providing for schools, for the punishment of crimes, support of the destitute blind, support and education of orphans, for the efficient execution of the laws and their publication among the people, against the introduction and vending of spirituous liquors, for the security of the rights and interests of the nation in its lands and other property, &c. One provision, in one of the laws last stated, is deemed exceptionable, for a reason subsequently stated; and exception may be justly taken, it is thought, to some of the provisions of the “act in reference to salines,” passed October 30, 1843, one of which has been made to apply to *artificial* salines, operating thereby prejudicially and oppressively upon individuals. Another is, that “no person shall have the right to work or improve any saline, or *manufacture salt*, without having first obtained *special* permission for that purpose from the national council or its authority.” Whatever may have been the motive for such an enactment, it cannot be doubted that the tendency of it would be to the erection of a monopoly in the hands of the Government, and a consequent repression of individual industry and enterprise, or, at the best, a bestowal of favors and privileges upon particular individuals, to the ultimate disadvantage of the people.

The laws for the punishment of crime cannot, I think, be held obnoxious to the charge of severity or cruelty. On legal conviction, “wilful murder,” “rape” by a *negro* on any free woman not of negro blood, and “robbery,” or the seizing upon, “by unlawful force,” the property or effects of another, and the robber shall, in so doing, wound or put in jeopardy the life of such other person by dangerous weapons, are punished with death. “Killing” in self-defence, or by accident, is not punishable. “Assault, with intent to kill,” is punishable by fine, at the discretion of the court, for the benefit of the party injured. “Perjury,” by disqualification to hold any appointment of honor, trust, or profit, and to be debarred *forever* from giving testimony in any of the courts. All lesser offences, by fine or whipping. Persons instigating to or aiding or abetting in any



crime, and "attempting to rescue a criminal from arrest, or affording any means for his escape before lawful liberation," are held as accessaries, and punished as the principal.

An admirable law is that which secures to every citizen the *right* to settle upon and cultivate at least one quarter section of unoccupied public land, wheresoever it may please him, holding all improvements he may make as his own property.

There appear to be offences against the "state." Any person or persons attempting to subvert the government of the nation, or resisting the enforcement of the constitution and laws, and any who shall, contrary to the will and consent of the legislative council of the nation, in general council convened, enter into a treaty with any commissioner or commissioners of the United States, or any officer or officers instructed for the purpose, and agree to cede, exchange, or dispose in any way of, any part or portion of the lands belonging to and claimed by the Cherokees west of the Mississippi, on conviction, *shall suffer death*.

Any persons committing the last-named offence, and resisting, or refusing to appear for trial, or absconding, are declared outlaws; and any person or persons, citizens of the nation, may kill him or them so offending, at any time, and in any manner most convenient, within the limits of the nation, and shall not be held accountable to the laws for the same.

The punishments for offences against "the state" seem to have been prompted by a jealous regard to the *integrity* and existence of the nation, and cannot be deemed as inconsistent with the general tenor of law or usage among our Indian tribes.

With the exception, perhaps, of the provision declaring certain offenders outlaws, and authorizing their death, which might be considered as contravening the spirit, if not the letter, of the Constitution of the United States, I do not see any thing in the Cherokee laws that, in my humble opinion, can be held as "contrary" to that instrument, or that, "in their execution," with the exceptions I have before noted, "would seem to be harsh or oppressive to the Cherokee nation." I would even say, that they seem to be framed with much wisdom, and admirably adapted to the character and wants of that people, and would, if *faithfully and impartially* executed, operate to their continued improvement in civilization.

I have the honor to be, with much respect, your obedient servant,

A. CADY,

*Captain 6th Infantry.*

Brigadier General R. Jones,

*U. S. Army, Commissioner, &c.*

#### REMARKS.

1. The laws of the "old settlers" (i. e., Western Cherokees) made all the *salines* the property of the nation, forbade the working of any without a lease, and made no provision for the *individuals dispossessed*.

2. The law of 1841, made by the existing government of the Cherokees, was a re-enactment of the old settlers' law of 1833, with two important improvements, exempting from national reservations all salt water procured by the skill and labor of private individuals, with a liberal provision for indemnity to such as might be dispossessed of any saline.

3. The law of 1843, now in force, makes no exception in favor of cases where salt water is procured by private enterprise. In other respects, this law is substantially the same as the law of 1841, which I consider the most equitable.

R. JONES.

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## APPENDIX No. 2.

### *Containing papers referred to in the Journal.*

(See also Appendix No. 1.)

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## CONTENTS.

- "A."—John Ross to Commissioners, November 20, 1844.
- "B."—John Rogers to Commissioners, November 20, 1844.
- "C."—John Rogers to Commissioners, November 25, 1844.
- "D."—John Rogers to Commissioners, November 27, 1844.
- "E."—John Ross to Commissioners, November 29, 1844.
- "F."—John Ross to Commissioners, November 30, 1844.
- "G."—John Ross to Commissioners, December 3, 1844.
- "H."—John Ross to Commissioners, December 9, 1844.
- "I."—Committee of Cherokee nation to Commissioners, December 13, 1844.
- "K."—John Brown, President Committee "W. C.," to Commissioners, December 13, 1844.
- "M."—Committee of Cherokee nation to Commissioners, December 14, 1844.
- "P."—John Ross to Commissioners, (with papers Nos. 1 and 2,) December 23, 1844.
- "Q."—John Brown, President Committee "W. C.," to Commissioners, December 24, 1844.
- "R."—John Brown, President Committee "W. C.," to Commissioners, December 24, 1844.

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## A.

TAHLEQUAH, November 20, 1844.

GENTLEMEN: I have the honor to acknowledge the receipt of your communication, bearing date Fort Gibson, November 16, 1844, enclosing a copy of your communication to Captain John Rogers of the same date. I am thus informed of the institution of a Commission, by the Secretary of War, "to inquire into and ascertain the true and exact extent of the discontent and spirit of hostility which prevails among our people, &c."

In the communication addressed to me, the Commissioners suggest my meeting them "on the ground, or that I adopt such other mode of proceeding as I or the national council may deem proper, and which may enable them, with equal certainty, to learn the real state of the facts." I would therefore respectfully propose, and, on behalf of the authorities of the nation, earnestly invite the Commissioners to honor us with their presence at Tahlequah, where the national council is now in session, and where the Cherokee people may be conveniently assembled, and that they call on Captain John Rogers, the complainant, to be there also, that he may be

fully heard, and the true sentiments of the nation elicited. And I assure you that peace and good order shall be maintained, so that the Commissioners may be enabled to act understandingly in the discharge of the duties intrusted to them.

The particulars and extent of the inquiries proposed to be made are not specified in your communication. Of these, I shall be pleased to be informed at your convenience.

I have the honor to be, gentlemen, your obedient servant,

JOHN ROSS,

*Principal Chief of the Cherokee Nation.*

General R. JONES,

Lieutenant Colonel R. B. MASON, } *U. S. Commissioners.*

P. M. BUTLER, Esq.,

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B.

FORT SMITH, ARK., November 20, 1844.

GENTLEMEN: Your communication of the 16th ultimo (per favor of Captain Alexander) was duly received. Your instructions relative to a prompt call of my people, "with as little delay as practicable," has this day been acted upon.

A copy of the circular notices sent is herewith enclosed. You will perceive, by that copy, that I have included the "treaty party" in the invitations given to the council; not that their claims are in the slightest degree connected with that of the "old settlers," but as being oppressed under the same stern despotism that tramples our people's rights into the dust.

And so construing your communication, by the advice and assistance of General Arbuckle and Major Hoffman, to whom I applied, and who kindly responded to the request, being a plain, unlettered Cherokee, I was fearful of going astray for the want of perfectly comprehending your instructions. If, with the aid of these gentlemen to assist me, I have misconstrued your instructions, and acted wrong in notifying the "treaty party," there is yet time to rectify the error, and upon your advice I shall do so immediately.

You are pleased to express "the expectation and desire of the Government, that both parties will carefully abstain from any movement calculated in the most remote degree to interfere in the beneficent designs of the Government of the United States."

I have instructed my people, and likewise the "treaty party," to conduct themselves in the most quiet and inoffensive manner towards all parties and every person. Such has been my advice at all times; and, so far, they have happily adhered to it, and I flatter myself, they will continue to do so.

I am, very respectfully, your most obedient servant,

JOHN ROGERS.

General JONES, *U. S. Army,*

Colonel MASON, *U. S. Army,*

Governor BUTLER, *U. S. Agent,*

} *Commissioners.*

FORT SMITH, ARK., *November 19, 1844.*

SIR: The Board of Commissioners appointed to examine into the claims and complaints of the "old settlers" and "treaty party," in a communication dated from Fort Gibson, November 16, 1844, have instructed me to call a general council of the two parties, (at as short notice as possible,) to be held at Tahluntuskey, in the Cherokee nation, on the 4th day of December next.

Truly your friend.

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C.

FORT SMITH, ARK., *November 25, 1844.*

*To the honorable Board of Commissioners:*

GENTLEMEN: I beg leave respectfully to bring forward to your notice a subject in which both myself and *my people*, the "old settlers," are deeply interested.

I have had intelligence, from a source in which I am bound to place the most implicit confidence, that the dominant party in power in the Cherokee nation intend, at the council proposed to be held at Tahluntuskey on the 4th day of December next, to arrest one of our leading men, Mr. James Carey, or the Chicken Cock, upon a civil or criminal writ.

By the proclamation of Governor Butler, Cherokee agent, dated November 18, 1844, the "complaining parties" (viz: the "old settlers" and "treaty party") are invited to attend a council, called by the "Commission" in these words: "Therefore be it known, that they [parties complaining] are requested to assemble, at an early day, at some convenient time and place that may be agreed upon, and then and there to make known to this Commission, and through them to the Government of the United States, all causes of alleged *grievances, injury, or oppression.*"

Mr. Cary has *grievances, injury, and oppression*, to complain of. If having had his property illegally seized and disposed of without a trial, if having been falsely accused upon a criminal charge, and his son, a mere boy, upon a similar charge, most cruelly abused, and himself obliged to fly his country to escape the intolerable *oppression* of a usurping party in power—be *grievances, injury, or oppression*, then, indeed, is he included in the call of the agent and the benevolent intentions of the War Department.

If, indeed, under color of law, civil or criminal, our people are allowed to be arrested, and placed at the mercy of our avowed enemies, what man of the "complaining parties" can for a moment believe himself safe, if this precedent of arrest at the *council* (for a precedent it will be) is suffered to take place? Has not the second chief of the usurping powers that be in the Cherokee nation declared on a recent occasion to the superintendent, Captain Armstrong, that the laws of the nation would be put in force against all who attended a council called otherwise than by his government? And has that declaration ever been recalled? Or has the agent, in his proclamation, guarantied the safety of any of the "complainants," either to the council, while there, or after their return?

What is then to hinder this usurping government from issuing writs, under color of their laws, and arresting all who attend the council of the "complaining parties," either while there or on their return home?



The arrest, therefore, of Mr. Carey will, in my opinion, destroy the whole intents of the General Government in calling the council, and indeed be the signal for a dispersion of the council, and violence and bloodshed.

It may be asked, if all this difficulty and confusion must ensue, why not absent himself from the council? But I answer to that question, the council is expressly called for the relief of men suffering under oppression, inflicted upon them by the malice of the usurping party in power; and if he cannot receive the benefits of a hearing by the honorable Board of Commissioners, the people will at once say there can be no safety for them, if not to their headmen.

But the true cause of their wishing to arrest him is to be found in his devotion to his people, and possessing much influence with them, and to his capability of being of service to his people, from his well-known intelligence and abilities and knowledge of the *wrongs* and *oppressions* under which they labor, and his powers of enlightening the minds and advising them how to act, that they may be restored to their rights.

From the moment that he joined me at the council, held in the forks of the Verdigris and Grand rivers on the 16th April, 1842, both him and myself were marked for destruction by the usurping government, our property seized under color of their laws, and ourselves outlawed.\*

I have most respectfully to request, therefore, as the day appointed for the meeting of the council is very fast approaching, that you will favor me with an answer as to your decision (if he will receive that protection from the honorable Board of Commissioners to which I and my people consider him entitled) at as early a day as practicable.

I am, with the greatest respect, your most obedient servant,

JOHN ROGERS.

Hon. General JONES, *U. S. Army*,

Colonel MASON, *U. S. Army*,

Governor P. M. BUTLER, *Agent Cherokees*,

} *Commissioners.*

\* [Remark.—It does not appear that any decree of outlawry against Rogers and Carey exists, or has existed.

R. J.]

D.

FORT SMITH, ARK., November 27, 1844.

GENTLEMEN: We, the undersigned, members of the western delegation, most respectfully invite your attention to the enclosed letter (or copy) of the Secretary of War; it was written in answer to an application from our delegation in Washington city to the War Department, for protection from the violence of the dominant party in power in the Cherokee nation. We conceive the protection *then* applied for *is*, in that communication, *granted*; in that belief, we have applied to the agent, Governor P. M. Butler, agreeably to its instructions, for a guard to and from the council, and while there. Without this guard, we most respectfully state, we decline attending the council called by the honorable Board of Commissioners. The *causes* that *compel* us to claim *protection* from the Government of the United States, are so well known to all the people of the Cherokee nation and the neigh-

boring whites, (and, we must presume, to your honorable Board,) that we will not trouble you with a recapitulation of them.

As the day set for the council to meet is too close at hand to admit of our waiting for the mail, we despatch this by an express, who has instructions to wait for an answer.

We remain, very respectfully, your most obedient servants,

JOHN ROGERS.

JAMES CAREY, his  $\times$  mark.

Gen. R. JONES, *U. S. Army,*

Col. R. B. MASON, *U. S. Army,*

Gov. P. M. BUTLER, *U. S. Agent,*

} Commissioners.

NOVEMBER 28, 1844.

[Although we do not think a guard to be necessary, yet the proper answer to this application will be, to say that their formal request, through the United States agent, to the general commanding the department, will be complied with, and that a guard will be furnished in due time.

R. JONES.]

WAR DEPARTMENT, *July 17, 1844.*

GENTLEMEN : I acknowledge the receipt of your letter of the 11th instant, and now reply to it.

I very confidently trust that Mr. John Ross, and those in authority in the Cherokee nation west of the Mississippi, will strictly regard the wishes and the views of this department, communicated to him in writing and in personal interviews held with myself.

I am anxious that no event may occur to expose you to any manner of unjust suffering; that in your nation and amongst the Cherokee people there may be no "domestic strife;" and that perfect tranquillity may follow your return to your homes.

Should I be disappointed in these anticipations, and should there happen to be committed upon you, or upon that portion of the Cherokee nation to which you belong, the outrages which you seem to apprehend, your proper course would be to apply for relief and protection to P. M. Butler, Esq., the Cherokee agent, whose general powers, combined with those vested in the military authorities upon the frontier, will be competent to prevent or suppress those outrages, as well as any movements productive of "domestic strife," and tending to disturb that good order and peace which should prevail amongst the Indian tribes and the different bands of the same nation.

I enclose you a copy of an order having a bearing upon the subject of your letter to me, which issued from the Adjutant General's office on the 26th ultimo, to Brigadier General Taylor.

Very respectfully, your obedient servant,

WILLIAM WILKINS,

*Secretary of War.*

Messrs. JOHN ROGERS,

JAMES CAREY,

THOMAS L. ROGERS,

} Delegation.

A true copy of the original. Witnesses—

JOHN F. McKENNEY.

JOHN ROGERS.

E.

PARK HILL, C. N., November 29, 1844.

SIR: Your letter of the 23d instant I have had the honor to receive. I am sorry, on several accounts, that the Commissioners have thought it advisable to decline our invitation to honor us with their presence at the seat of our national government.

In regard to the separate meeting of "the parties complaining," I beg respectfully to suggest that Mr. Rogers, as a private individual, doing an act which none but officers specially authorized are allowed to do—that the separate assembling of those styling themselves "complainants," to the exclusion of the parties of whom they complain—the allowing of testimony to be adduced *ex parte* to establish whatever charges the "complainants" may be disposed to make against individuals and against the nation, thus excluding the accused from the common right of meeting their accusers face to face—will be very likely to be viewed by the great body of our people with much dissatisfaction. The course, moreover, appears to be objectionable, as peculiarly calculated to promote the organization of a faction, whose expressed designs are subversive of the rights and well being of the nation, and utterly opposed to the sentiments and wishes of the people.

Had the Commissioners not deemed it expedient to meet at Tahlequah, but had *themselves* called a meeting at the Cherokee agency of the whole people, without distinction and without recognition of party, I should have deemed it proper to attend, as a mark of respect to the United States and of courtesy to its officers. But to attend *officially* a meeting for purposes affecting the national interests, which an individual is permitted to call, in contempt of his own government, I could not but view as offering an indignity to my constituents which they would certainly resent. And I cannot but think that "the purpose of the Secretary of War, and the precise object of the Commission to ascertain the real state of the facts which are alleged on either side, and contradicted on the other by the opposing parties, by actual inquiry and examination on the spot in the Cherokee nation," would be learned by the Commissioners, not only "with equal" but with far greater "certainty," by assembling at one place all the parties concerned in the inquiries to be made, that both sides might be heard, and a just judgment formed of the matters in question.

I shall feel obliged by your communicating the contents of this letter to the other gentlemen of the Commission.

I have the honor to be, with great respect, sir, your most obedient servant,

JOHN ROSS,

*Principal Chief of the Cher. Nation.*

Adjutant General R. JONES,

*U. S. Army, and Commissioner.*

F.

PARK HILL, C. N., November 30, 1844.

GENTLEMEN: I have received by express yours of the 27th instant, stating that "the Commissioners have learned that it is the intention of the Cherokee authorities to arrest certain men of the 'complaining parties,'

that are to assemble on the 4th proximo, near the mouth of the Illinois river, for some alleged violation of law."

To this I beg leave to reply, that I know of no such intention having been expressed or entertained, nor do I believe that such is the fact. It is a fact, however, and I presume the Commissioners are not ignorant of it, that outrages of the most horrid and revolting character have been perpetrated—some of them in open day, by individuals claiming alliance with "the complaining parties," and who scruple not to boast of their further thirst for blood. Though the Commissioners do not specify the individuals intended by certain men of the complaining parties, I cannot for a moment believe that, in pledging the faith of the United States, to guaranty full and effectual protection to *every man* of "the complaining parties," they wish the expression "*every man*" to be understood in so broad a sense as to include those characters whom it is the sworn duty of the officers of the nation, and no doubt their intention, to arrest wherever they may find them. Without the most remote desire to pervert the language of the Commissioners, I would respectfully suggest that some passages in their communication of the 27th instant appear to be susceptible of being so construed as to imply a departure from the stipulated pledges of the Government, that "the United States shall protect the *Cherokee nation* from domestic strife." The Commissioners there say: "We are bound, by our official capacity, to notify the Cherokee authorities, through you, that we pledge the faith of the United States to guaranty full and effectual protection to every man of the complaining parties, in their coming to, attending upon, and returning to their homes from the meeting that is called by the authority of the United States Government, near the mouth of Illinois river, on the 4th of December next."

This passage might be so interpreted as to mean that the very persons fomenting "domestic strife" shall be protected against "the Cherokee nation." From your known magnanimity, I feel assured that this freedom of remark will be received from the executive of the weaker party with indulgence; as you are fully aware that the silent admission of language, capable of misconstruction, though productive of no damage at all in transactions with high-minded and honorable men, easily become pretexts for the exercise of grievous oppression, when seized on as precedents by characters of a different stamp. As there may exist some doubts in regard to the regularity and legality of the apparent course which the proceedings are taking, and as our national council is now in session, it may be important for them to know the exact course of proceeding which the Commissioners intend to adopt. I shall therefore be glad to be informed if they have finally concluded to hold the meeting at the mouth of Illinois; and if so, is the invitation to attend to be understood as addressed by the Commissioners to the whole Cherokee people? Will subsistence be furnished to them by the United States if they attend? And are the examinations proposed to be made to be conducted openly, in the presence of all parties?

In conclusion, I beg leave to direct your attention to the contents of a letter, dated yesterday, to Adjutant General R. Jones.

Very respectfully, I remain, gentlemen, your humble servant,

JOHN ROSS,

*Principal Chief of the Cherokee Nation.*

Adjutant General R. JONES, U. S. A.,	} Commissioners, Fort Gibson.
Lt. Col. R. B. MASON, U. S. A.,	
P. M. BUTLER, United States Agent,	



G.

PARK HILL, C. N., December 3, 1844.

GENTLEMEN: The haste of your express to return will allow me to make but a very brief reply to your communication of yesterday's date, received last night. Of the desire of the Commissioners to arrive at the truth in the inquiries to be made, I have no doubt; but as the complaints of John Rogers and others have been specified in their communication to the Secretary of War, and responded to by the Cherokee delegation, and the object of the Commission being to ascertain the true state of the facts, I could not see any feasible way of arriving at the truth, but by assembling the people, without distinction, at one place. Under this view of the subject, the proposition was made to meet at Tahlequah, the seat of our national government.

The course about to be pursued is objected to, as being calculated to foster the spirit of faction, and to defeat the very object which the government wish to attain. Under all the circumstances of the case, I must respectfully decline attending, and the authorities of the nation have not deemed proper to appoint a deputation for that purpose.

At the same time, should the Commissioners deem it proper to honor us with a visit during the sitting of the national council, I shall be happy to see them. I have the honor to be, gentlemen, your very obedient servant,

JOHN ROSS,

*Principal Chief of the Cherokee Nation.*Adjutant General R. JONES, *U. S. A.*,Lt. Col. R. B. MASON, *U. S. A.*,P. M. BUTLER, Esq., *U. S. Agent*,} *Commissioners.*

H.

PARK HILL, C. N., December 9, 1844.

GENTLEMEN: Your letter of the 7th instant, dated at Tahluntuskey, was received yesterday, apprizing me of your intention "to adjourn in the course of the day," and of "having decided to meet again on Tuesday, the 10th, at the old Cherokee agency, on the road between Fort Gibson and Park Hill, there to resume the business to be transacted."

By reference to our correspondence, it will be seen that I deemed it my duty to object to meeting at that place, and respectfully to invite the Commissioners to honor us with their presence at Tahlequah, the seat of our national government, where their inquiries could be prosecuted with more facility and with greater advantage to the cause of truth, and also without exciting alarm in the minds of the people. And in the interview with which I was honored by the Commissioners, I expressed the same sentiment in a full and free conversation on the subject.

And now the Commissioners have adjourned to the agency, I beg leave respectfully to ask whether they have declined to honor us with their company at Tahlequah, and, if so, are they ready at that place to hear the nation in regard to the matters of inquiry?

I regret exceedingly that the Commissioners should be led to place a construction on the fact of the appearance of some of the national police so remote from the intentions of any portion of the Cherokee authorities, and so contrary to those confiding and friendly feelings which the Cherokees

have uniformly cherished towards the Government and people of the United States, and which they have never failed to evince when suitable occasions have occurred.

In regard, however, to the attendance of the police companies, I would just remark, that it being their duty to preserve the peace and to enforce the laws of the country, and information having reached them that the "*complainants*" were coming in armed bodies, they considered it proper, in obedience to the law, to be present also, without intending the least disrespect to the Commissioners or their Government; and as the Commissioners themselves deemed their presence harmless, and were assured, on the spot, that no disrespect was intended, it is hoped they will be satisfied that such was the fact.

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

JOHN ROSS,

*Principal Chief of the Cherokee Nation.*

General R. JONES,

Lieutenant Colonel R. B. MASON, } *United States*

P. M. BUTLER, Esq., } *Commissioners.*

P. S. Will the Commissioners be pleased to return a reply by the express?

Very respectfully,

J. R., *P. C.*

I.

OLD CHEROKEE AGENCY, *December 13, 1844*

GENTLEMEN: Through a communication addressed to P. M. Butler, Esq., United States agent, on the 12th instant, by John Ross, Principal Chief, you have been informed of our appointment, under the authority of the national council, a committee in behalf of the Cherokee nation, to attend your proceedings.

For the proper discharge, therefore, of the duties thus imposed on us, we respectfully request to be made acquainted with the character and objects of the Commission, and what proceedings have been had by you relating to them.

As it will be required of us to furnish to the government of the Cherokee nation a full and correct report of all our official acts, we respectfully request, also, written replies to our communications.

We have the honor to be, gentlemen, your very obedient servants,

JOHN LOONEY.

J. VANN.

AARON PRICE.

YOUNG ELDERS.

JOHN RILEY.

DAVID VANN.

MOSES PARRIS.

DAVID CARTER.

JOHN SPEARS.

JAMES M. PAYNE.

WILLIAM P. ROSS.

Adj. Gen. R. JONES, *U. S. Army,*

Lieut. Col. R. B. MASON, *U. S. Army,*

P. M. BUTLER, *U. S. Agent,*

} *United States*  
} *Commissioners.*

K.

OLD AGENCY, C. N., December 13, 1844.

GENTLEMEN: We most respectfully bring under your notice an outrage committed by a company of armed police, attached to Mr. Ross's government, upon Mr. William Dutch, one of the committee of "old settlers."

This party of police, commanded by Johnson Foreman, on last Sunday evening surrounded Mr. Dutch's house, and, searching the house and out buildings closely, declared their intention was to have scalped Dutch, if they had caught him. He escaped by accident. Lightningbug Bowles providentially overtook the police, about half a mile from Dutch's house, and, passing them, went on to where Dutch was, about four (4) miles from home, and gave him timely information.

We most respectfully intimate to the honorable Commissioners, that *our people* understand the *protection* of the United States Government to extend to their *homesteads* as well as covering them on the *council ground*, while *immediately under the United States flag*.

If we are in error in thus understanding the protection extended to us, we beg most respectfully that the honorable Commissioners will inform us in time for us to provide for the emergency, in such manner as self-preservation and common prudence may dictate.

With the greatest respect, we are, gentlemen, your most obedient servant,

JOHN BROWN,

*President of the Committee of complainant parties of Old Settlers and Treaty.*

General R. JONES,

Colonel R. B. MASON,

Governor P. M. BUTLER,

*United States  
Commissioners.*

M.

OLD AGENCY, C. N., December 14, 1844.

GENTLEMEN: We have the honor to acknowledge the receipt of your communication of the 13th instant, in reply to ours of the same date, in which we requested to be made acquainted "with the character and objects of your Commission, and what proceedings have been had by you in relation to them."

From your communication, and the address referred to, we learn briefly that the Commission has been instituted by the President of the United States, with the view to "learn on the spot, in the Cherokee nation, the real state of the facts" in relation to certain complaints made to your Government by individual portions of the Cherokee people, styling themselves the "old settlers" and "treaty party," relative to the formation and administration of the government of the Cherokee nation, and other "matters of charge alleged against the authorities under that government." As regards the government of the Cherokee nation, which is in actual and successful operation, we respectfully remark, that it has received the approbation and confirmation of overwhelming majorities of all classes of its citizens, including the last fragment of the "old settlers." All classes have

equally enjoyed its protection. The offices in all departments of the government have been filled by persons freely elected from among all classes, without distinction; and such persons have uniformly bound themselves, by the solemn sanction of an oath, to perform the duties of their respective offices, in accordance with the principles of the constitution and the provisions of the laws. These facts are abundantly confirmed by documents in the War Department of your Government. The government thus established has received not only the approval and confirmation of *all* classes of the Cherokee people, (including the "complainants" themselves,) but has been also formally recognised by the President and high officers of the United States Government. For confirmation of this statement, we refer to documents on file in the Department of War, to a letter dated September 20th, 1841, from the President of the United States, to John Ross, David Vann, and John Benge, then a Cherokee delegation, and to the fact, that, under the direction of the War Department, moneys have been repeatedly paid to the treasurer of the nation, on the order of the national authorities.

The institution, by the President of the United States, of a Commission to inquire into any matters confined to the domestic affairs of the Cherokees is in our opinion a novel measure, and one that embraces many principles to them of great and vital importance. It is, we respectfully conceive, an assumption of authority which not only marks a new era in the Indian policy of your Government, but is in evident opposition to the letter and spirit of all the treaties that have been made, from that of Hopewell, in 1785, down to the present time, between the United States and the Cherokee nation. The right of self-government has always been secured to our nation; the right to interfere in the administration of their domestic affairs, the Cherokees never have conceded, and never can concede, to the United States. We do therefore, at the same time that we entertain the most profound respect for the gentlemen composing the Commission, and entire confidence in their integrity of purpose, deny all right, and in the name of our government and our people, most solemnly protest against the exercise of any power, on the part of the Government of the United States, to interfere in any matter whatever that affects the domestic affairs of the Cherokees.

We protest against the execution of your commission, because it will interfere in our internal affairs, and strike a heavy blow at our government and institutions.

If the United States possess, as already denied, any right to inquire into grievances alleged by individual citizens against any of our laws or institutions, or the conduct of our authorities in any matter pertaining exclusively to the Cherokees, that right presupposes also the one to abolish, modify, or redress. If they can interfere in one such case, they can interfere in every case. The principle once admitted, the precedent once established, the exercise may become common in the hands of other men, and at other times, when our government, if not totally demolished, will be virtually destroyed, and exist only as a byword and reproach. In the anticipation of such an event, the hearts of our countrymen shudder; the inducements held out to us to press onward in the career of civilization become idle, and the advances we have already made will serve only to embitter the sense of wrongs we have sustained, and make more intense the consciousness of our ruined condition.



We protest against it, because it begins already, and must inevitably continue to create and nourish "domestic strife." It weakens the attachment of our people to our laws and institutions, and encourages the evil-disposed to despise all restraint, and to persist in their course of disorder and lawlessness.

The Government of the United States has promised, under solemn treaty stipulations, to afford *protection*, not to this or that individual, nor to this, that, or the other party, but to the *Cherokee nation*. That protection we claim for our common government and people, and call for its exercise.

We protest against the Commissioners holding any assemblage contrary to the laws of the Cherokee nation, or transacting any business which may affect the common rights and interests of the Cherokee people, with any set of men, under any title whatever, other than the lawfully constituted authorities of the Cherokee nation.

You have also informed us that no business has been transacted, with regard to the objects of the Commission, except the registry of the names of the persons belonging to the "old settlers" and treaty party, whom we (you) have seen, with a view to ascertain numbers and issue rations.

If these names are to be used in any way as drawing party lines, or as the groundwork of future action on the part of your Government, in any thing connected with the common government or rights of the Cherokee people, we deem it our duty also respectfully to protest against the "registry." And this we now do, because persons not entitled to citizenship in our nation, and those not yet arrived to years of maturity, have had their names registered; and others, through ignorance, and no doubt by false representations and inducements held out to them by designing and speculating men. In this connexion, we may add, that the registering of names, under the circumstances, is already producing and will continue to produce excitement, not only in the minds of the people at large, but especially in the minds of those who may find that they have been duped.

We have the honor to be, gentlemen, your very obedient servants,

JOHN LOONEY,  
AARON PRICE,  
JOHN RILEY,  
YOUNG ELDERS,  
DAVID VANN,  
MOSES PARRIS,  
J. VANN,  
STEPHEN FOREMAN,  
JOHN SPEARS,  
DAVID CARTER,  
JAMES M. PAYNE,  
WILLIAM P. ROSS,

} Committee of the  
Cherokee Nation.

Adj. Gen. R. JONES, *U. S. Army*,

Lt. Col. R. B. MASON, *U. S. Army*,

P. M. BUTLER, Esq., *U. S. Agent*,

} United States Commissioners.

P.

PARK HILL, December 23, 1844.

GENTLEMEN: On Saturday, the 21st instant, I had the honor to receive your communication of the 19th, and avail myself of the earliest opportunity of returning a reply.

It is a source of regret that the complaints of William Dutch, of the alleged misconduct and language of the police company commanded by Johnson Foreman, on Sunday evening, the 8th instant, have been deemed of sufficient importance to merit official notice, after having been, as I am informed, satisfactorily explained several days since at your instance by the complainant himself, through Mr. John Drew. But it is a source of deeper regret than the mere fact of noticing the complaints, that it is done in a way that conveys the unavoidable impression that the alleged conduct resulted from the political views and acts of William Dutch, and with my knowledge or connivance.

For your full information touching the case in question, I respectfully invite your attention to the accompanying copies of reports submitted to me by Colonel R. Brown and Captain Foreman, officers of the Cherokee police.

From the report of Colonel Brown, you will learn the considerations that induced him to order out Captain Foreman, and for what specific purposes; and from that of Captain Foreman, that he confined himself strictly to orders, had nothing whatever to do with William Dutch, and that neither he nor his company said or did any thing that was designed or calculated to give offence. Should these reports, which are clear and explicit, not prove entirely satisfactory to you, I will, without delay, have an investigation of the case made, if the complainant, with the Commissioners, shall attend at Tahlequah.

I have heard of no "intentions of the Cherokee authorities towards" any of the individuals *after* their return home, who have merely obeyed the call of the United States Commissioners, and am not aware that any grounds exist why "fears" should be excited in the mind of any one of them on that account. I feel entire confidence in saying that no person will be molested for merely attending the councils called by you; but, at the same time that I speak confidently on this point, it is not less my duty to state that I cannot possibly understand the "protection" you have promised, on the part of the United States, as designed to elevate the individuals in question entirely above the laws of their country, and to secure them impunity in violating them. I hope, therefore, that the Commissioners will see the necessity of admonishing those individuals that this protection will not justify them in committing infractions of the laws of the Cherokee nation, as those laws will be regularly enforced, without distinction.

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

JOHN ROSS,

*Principal Chief, Cherokee Nation.*Adj. Gen. R. JONES, *U. S. A.*,Lt. Col. R. B. MASON, *1st Drag.*,Gov. P. M. BUTLER, *U. S. Ag't*,} *United States*} *Commissioners.*

## No. 1.

TAHLEQUAH, *December 21, 1844.*

SIR: On my arrival at Tahluntuskey, on the 5th instant, intelligence reached me that Bean Starr, an outlaw, had been killed on Boggy, in the Choctaw nation, by a volunteer company of Cherokees, under the command of Daniel R. Coody, who went out in search of him, Thomas Starr, and Ellis Starr, and stolen horses; and that the company were bringing the corpse back to this nation. On the same day, and the following, it was reported publicly that the brothers of Bean Starr were then collecting men, with the determination of waylaying Mr. Coody and company on their return, and avenging his death. Under these circumstances, and with a view, if possible, to arrest any other outlawed murderers, I deemed it my duty to order one company of the police to proceed forthwith to meet the company of Mr. Coody, and to afford them any aid that might be required.

For this purpose, Captain Johnson Foreman and company were ordered out on Saturday, 7th instant.

For information regarding the conduct of Captain Foreman towards William Dutch, which has been made the cause of complaint to the United States Commissioners now at Fort Gibson, I respectfully refer to his accompanying report.

ROBERT BROWN,  
*Colonel of Police.*

JOHN ROSS, *Principal Chief.*

## No. 2.

TAHLEQUAH, *December 21, 1844.*

SIR: I am this day apprized by you that the United States Commissioners have learned that the police company commanded by me, on "Sunday evening, the 8th instant, after leaving Tahluntuskey, surrounded the house of William Dutch, one of the 'old settlers,' and one of the committee appointed at Tahluntuskey to represent them before the undersigned United States Commissioners; that they made threats against him, and closely searched his house and out buildings." For your information touching these charges, I respectfully report:

That on Saturday morning, the 7th instant, I received orders from Colonel R. Brown, and immediately set out from Tahluntuskey, with one company of police, for the purpose of meeting and rendering any assistance that might be required to secure a safe return home to Mr. Daniel R. Coody and company; and also, if possible, to secure and bring to justice the outlaws who have been murdering our citizens and stealing their horses. Saturday night, the 8th instant, we spent at Webber's falls. Sunday morning, so soon as I could borrow some guns and procure a guide, we set out upon the duties assigned. Late in the afternoon of that day we reached the house (as my guide informed me) of William Dutch. On approaching the house, a youth was seen running from it towards another house several hundred yards off, whom I ordered some of my company to overtake, thinking it probable, from his manner, that he was desirous

of giving information, as my guide had just stated, on the authority of common report, that the outlawed Starrs occasionally stopped at Dutch's.

The boy was overtaken, and a few questions asked him. He was not touched, hurt, or in any way insulted, by those who pursued him. The company rode up, dismounted, and went into the dwelling house and the kitchen, and warmed themselves, as the day was very cold. The houses were not searched or surrounded. There were *no threats* made by myself or any member of my company; nor was there an unkind word uttered, or an offensive act performed by any one, that ever came within my knowledge. Dutch was not at home, nor was I aware of his having returned from Tahluntuskey, until informed by his wife; when casually asked where he was, she replied that he had gone to the Creek nation.

We remained there half or three-quarters of an hour, warmed ourselves, were kindly treated, ate and paid for some hominy, and then left and proceeded some five miles, to the widow Chisholm's, where we spent Sunday night.

From my orders and the foregoing statement, you will perceive that I had nothing to do with William Dutch whatever, much less to treat him improperly, as the attempt will be made to create the impression, on account of his political acts and views.

Very respectfully, your obedient servant,

JOHNSON FOREMAN.

JOHN ROSS, *Principal Chief.*

Q.

FORT GIBSON, *December 24, 1844.*

GENTLEMEN: In pursuance of a resolution passed by the joint committees of "old settlers" and "treaty party," I have respectfully to ask of the honorable Board of Commissioners, as we are on the point of breaking up, and dispersing to our several homes, in what manner we shall be protected by the United States Government in our several homesteads, and to whom we shall *apply* for *that protection*, if molested by the dominant party in power in the Cherokee nation; and, if any communication has been received by the honorable Board of Commissioners, from Mr. John Ross, upon the subject of Captain William Dutch's house being surrounded by the armed police attached to his (Ross's) government.

Very respectfully, your obedient servant,

JOHN BROWN, *President Committee.*

Hon. R. JONES, U. S. A.	} <i>United States</i>
R. B. MASON, U. S. A.,	
P. M. BUTLER, Esq.,	

*Commissioners.*

[R. Jones, in behalf of the Board, fully explained to both committees, called together this morning, the measure of the "protection" which they were entitled to expect—and, in connexion with the subject, communicated to them the satisfactory answer received from Mr. Ross last evening, and our reply thereto of this date.]



R.

FORT GIBSON, C. N.,

*December 24, 1844.*

GENTLEMEN: We have listened to your farewell address, closing your mission so far as we are concerned.

Your good wishes for our welfare we feel grateful for. Your courteous offer that some two or three of our body should accompany you on your intended visit to Tahlequah, we beg respectfully to decline. We are fully aware of the kindness of your intentions in extending to us the invitation. But feeling perfectly satisfied with the *fair, open, and candid* manner in which the investigation of our grievances and complaints has been conducted by the honorable Board, we are satisfied that nothing *can be done* by the honorable Commissioners but what will be fair and strictly just to all the parties concerned.

The committee take this opportunity of expressing their thanks to the honorable R. Jones, Col. R. B. Mason, and Governor P. M. Butler, United States Commissioners, for their courteous and kind treatment of the undersigned committee of "old settlers," while attending this council.

Wishing that the Great Spirit, the essence of *light and truth*, may have and keep you in his care, we remain your friends,

JOHN BROWN, *President Committee.*

R. JONES, U. S. A.,	} <i>United States</i> <i>Commissioners.</i>
R. B. MASON,	
P. M. BUTLER,	

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["S" is a separate paper, being a complaint of Mrs. Susannah Ridge and others, and an "appeal" to the President, to be presented to the Secretary of War, agreeably to the request of the parties.]

