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Representatives of George Duval and others.

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REPRESENTATIVES OF GEORGE DUVAL AND OTHERS.

[With Senate bill No. 207.]

MAY 10, 1838.

Mr. EVERETT, from the Committee on Indian Affairs, made the following

REPORT :

The Committee on Indian Affairs, to which was referred the bill from the Senate (No. 207) for the relief of the legal representatives of George Duval and others, submit the following report :

The bill provides for the payment of claims of Cherokee Indians for property abandoned or lost in consequence of their emigration from Arkansas, under the treaty of the 6th May, 1828.

The evidence in support of the claims is contained in the report of the Secretary of War to the Senate, of the 24th January, ultimo, (Senate Doc. No. 125 ;) and the obligation on the United States to satisfy these claims is supposed, in that report, to arise from the 8th article of that treaty, and to have been recognised by the subsequent legislation of Congress, referring to the acts of the 13th July, 1832, and of the 28th June, 1834 ; a reference is also made to the 5th article of the treaty.

The bill provides for the payment of the claims of George Duval, amounting to the sum of \$4,000, and for the payment of 93 other claims contained in a schedule annexed to said report, amounting to \$9,419 50.

The evidence in support of the claims of Duval proves his loss to have been occasioned by his sudden death and the inability of his family to remove his property ; placing it solely on the ground of property abandoned, on emigration under the treaty of 6th May, 1828, and subsequently taken possession of by the whites, or lost.

The character of the claims in the schedule is derived only from the heading of the schedule, viz :

“Schedule of stock alleged to have been taken by citizens of the United States from the Cherokees west of the Mississippi, since their removal from the country ceded by them to the United States, by treaty of 6th of May, 1828 ; which property has been unavoidably lost to them, from the impossibility of saving it, under the difficulties produced by the occupancy of the ceded country by citizens of the United States, before the Cherokee stock could be removed ; and by their killing two Cherokees, and marring others, when endeavoring to find the stock they had not removed, or to recover stock that had strayed back to its former range.”

The claims, then, are for property abandoned, or which strayed back. As no testimony accompanies the report, no discrimination can be made ;

and the schedule of claims, with the claim of Duval, may be placed on the general ground of claims for property abandoned or lost in consequence of the emigration of the claimants under the treaty.

The manner in which this schedule of claims was proved will be noticed hereafter. It is sufficient for the present to refer to the schedule itself, and to the letters accompanying it, contained in the report of the Secretary of War.

The treaty of 6th May, 1828, was made with the Cherokees west of the Mississippi. The Cherokees east of the river were not parties to it, though it contained a stipulation for their benefit.

By the 7th article, the Cherokees relinquished their right to their lands east of the present west line of that State, and agreed to remove therefrom in fourteen months, (by 6th July, 1829,) to their country west of that line; and by the 3d article, the United States agreed to have the line surveyed by the 1st of October, 1828, (which was done,) and immediately after the survey of the line, to remove the whites from the lands west of the line.

By the 5th article, (referred to in the report,) the United States agreed to pay to the Cherokees \$8,760 for previous spoliations committed by the Osages and whites, in full of all demands of the like kind up to the date of the treaty. This article related solely to past spoliations, and can have no relation to those that should occur in the execution of the treaty. The pertinency of the reference, therefore, is not perceived.

By the 4th article of the treaty, the United States agreed to pay the Cherokees the value of all such improvements as they might abandon in their removal from their homes in Arkansas. This relates solely to improvements on *lands*, and can have no reference to claims for *personal property* abandoned.

By the 8th article, (referred to in this report,) the United States agreed to pay such of the Cherokees, *then residing within the chartered limits of Georgia, or either of the States east of the Mississippi, as should remove west*, "a just compensation for the *property they should abandon*, to be assessed by persons to be appointed by the President." This article, on the face of it, relates exclusively to Cherokees then residing east of the Mississippi; and it is somewhat singular that this article should have been referred to in support of the present claims, as it involves an error of construction as well as of the application of the article. It appears by the instruction of the 3d September, 1831, (A 1,) given by the War Department, in relation to the execution of this article, as applied to the Cherokees east, that the term *property abandoned* was construed to apply only to *improvements on land*; and, on that construction, the valuations were made. Under this article, no allowance was made to the Cherokees east of the Mississippi, for *personal property* abandoned.

It is, then, certain that no obligation is imposed by the treaty to make compensation for claims like those provided for by this bill.

The committee will now examine the acts referred to in the report, by which the liability of the United States is supposed to have been recognised.

The first is the act of the 13th July, 1832, entitled "An act to carry into effect certain Indian treaties." The first section relates to subjects appropriate to the title of the act. The second section directs the Sec-

retary of War to cause any unsatisfied claims of John W. Flowers, Nicholas Miller, William Drew, and Joseph Rogers, Cherokee Indians, for stock lost by them, respectively, by spoliations committed by citizens of the United States, in the years 1828 and 1829, in the Territory of Arkansas, ceded to the United States by the Cherokees in the month of May, 1828, to be settled and paid for in the same manner as if such spoliations had been committed before the cession, on the principles of the intercourse act of 1802. The same section further directs the Secretary of War to ascertain the names of the persons who committed the depredations, and to take steps for their prosecution and punishment, and for the recovery of the value of the property.

These claims had been presented and rejected by the War Department, not with any reference to the treaty, but because they did not come within the letter of the intercourse act, (A 2.) It is presumed the objections were that the spoliations were not committed within the Indian country, and that the offenders had not been convicted; and to remove these objections the act was passed. Such, at least, is its effect. It does not change the character of the spoliations, but leaves that to be determined according to the principles of the act of 1802.

The claims, then, must be brought within the principles of the act of 1802, as described in the 4th section: "When in the commission of any robbery, larceny, trespass, or other crime against the person or property of a friendly Indian, which would be punishable if committed within the jurisdiction of any State, against a citizen of the United States, property is taken or destroyed." The taking or destruction must be a *felonious or tortious violation of the actual possession* of a friendly Indian, not the mere taking or conversion of property abandoned. And it is manifestly the intention of the act of 1832 to include cases of that character only, as it directs the Secretary of War to take steps for the prosecution and punishment of the persons committing the spoliations.

In the construction of the act (of 1832) the Department had no other guide or rule than the legal import of its terms. There was no report accompanying the bill, that could give color to any other principle of construction; nor for that purpose could reference be made to the evidence presented to the committee. It was not its purpose to decide on the evidence of the claims, but to establish the rule by which they should be decided. Such was the object of the act; it merely laid down a principle, and left it to the Department to decide whether the evidence proved the claims within the principle.

The committee, then, are of opinion that this section did not authorize the allowance of any claim for depredations, not within the principles of the act of 1802.

The committee, however, are satisfied that the claims in fact allowed under this of 1832 were not allowable under the act of 1802, but were of the character of those now under consideration. The committee refer to the report of the Commissioner of Indian Affairs, (B.) It is, then, not the act of 1832, but its misconstruction, that has been taken for a recognition of the liability of the United States to pay for depredations of this description.

The claims allowed under this act amount to \$6,724.

The other act referred to is the act of 25th June, 1834, reported by

the Committee of Ways and Means for carrying into effect Indian treaties. The item is as follows:

"To compensate the Western Cherokees for stock and other property lost during their emigration, under the 8th article of the treaty of 6th May, 1828, \$14,364 50."

The committee have endeavored to ascertain how this item got into the bill, in any form, and more especially how it came to be referred to the 8th article of the treaty; the result has not been entirely satisfactory.

It appears from the instructions of the Commissioner of Indian Affairs to the commissioners (Messrs. Ellsworth and Schermerhorn) of the 18th December, 1832, (C,) that (after referring to the payment of the claims under the act of 13th July, 1832) "the commissioners were informed that it had been intimated to the Department that there were other claims for spoliations for which provision should be made, and were instructed to give notice to the holders of such claims to present them forthwith to them for examination."

The commissioners referred the subject to Captain Vashon, of which the Department was advised by their letter of 16th April, 1833, (D.)

On the 10th August, 1833, the Commissioner of Indian Affairs wrote to Captain Vashon, (E,) that the commissioners were mistaken in supposing that the claims to be investigated were claims under the treaty of 1828; and he was directed to report the general character and probable amount of the claims for which no provision had been made, and to await further instructions.

The agent proceeded, without further instructions. The Cherokees, in council proceeded to examining, and allowed 241 claims, amounting to \$14,364 50, on principles similar to those contained in the report of the Secretary of War; the heading of both schedules is the same. The letter of the chiefs, (H,) certifying the allowance of the schedule of claims, (F,) and the certificate of Captain Vashon (G) at the foot of the schedule, and the letter of Captain Vashon of the 1st of April, 1834, (I,) to the Department, transmitted with the schedule of claims, are annexed.

In the estimate made by the Commissioner of Indian Affairs, and transmitted by the Secretary of War on the 18th June, 1834, to the chairman of the Committee of Ways and Means, is the following item: "*For compensation to Cherokees for property abandoned under the 8th article of the treaty of May 6, 1828, \$14,364 50.*" The estimate was accompanied by duplicate bills, containing the item in this form: "To compensate the Western Cherokees for stock and other property lost during, *and in consequence of,* their emigration, under the 8th article of the treaty of May 6, 1828, \$14,364 50;" and in the margin of the bill was the usual reference to the volume and page of the treaty. The bill, on the 24th June, was reported by the committee as it passed, omitting the words in italics. The omission, however, was not the act of the committee, as the bill reported was a third bill furnished by the Department. From the whole, it is apparent that, from the hurry of business in the short time between the receipt of the estimate and the report of the bill, a critical reference to the treaty may not have been made. Nor is it probable that the attention of the House was called to it. This act is therefore to be considered as having passed in error or inadvertence, and not as recognising any liability on the part of the United States.

The committee will now refer to another objection to the allowance of the claims contained in the schedule, arising from the manner in which they were proved. It seems, in both cases, the claims were presented to the Cherokees, in council, who heard the statement of the Cherokee claimants, and were by the council examined and certified to be just, (F.) And the agents certify that they have used all diligence, by employing the best means within reach, &c., and believe the claimants have sustained the losses, &c., (G.) This mode was not authorized by law, or even by any previous act of the Department. Vashon, the agent, was expressly directed to state the general character and probable amount of the claim, and to wait for further orders; and it is not ascertained that any further orders were given; nor could such a mode of liquidating claims against the United States be tolerated. In fact, the Cherokee council constituted themselves a board of commissioners, to allow the claims of their own people, to the number of 334, amounting to \$23,784, subject to the approval of an Indian agent only.

The committee having disposed of the question of liability under the 8th article of the treaty, or under the acts of Congress referred to, will now inquire whether there is any equitable ground on which these claims ought to be allowed, or even opened for investigation.

The committee do not understand, from the evidence, that any part of the claims are placed on the principle of a felonious or tortious taking from the possession of the Indians, while they actually resided on the ceded lands, and within the time limited for their removal. Every spoliation of that character would come within legal construction of the act of July 13, 1832; and to this extent only that act may be cited as authority. And the committee are of opinion that the country ceded might well be considered as a part of the Indian country, within the act of 1802, until the expiration of the time allowed the Cherokees to remove; yet no reason is perceived why the other requisition of that act should be dispensed with—the conviction of the person committing the spoliation.

The evidence presents the claims as resting on two grounds, without any discrimination, viz: for property abandoned on their removal, or for property which strayed back and could not be reclaimed. In the first case, the certificate of the council alleges that the greater part of the claims are of the latter description. The certificate to the last schedule is silent on that subject.

On referring to the 5th article of the treaty, it will be found that both classes of losses were anticipated, and provisions made for indemnity in advance. The stock of the Indians was in range; the difficulty and uncertainty of collecting it on a sudden removal was one of the inconveniences and troubles attending their removal; and it was also anticipated that their cattle might stray back. To meet these contingencies, "the United States, in consideration of the inconvenience and trouble attending their removal, and on account of the reduced value of a great portion of the lands ceded to them, compared to that ceded by them, agreed to pay \$50,000, and an annuity for three years of \$2,000, (making \$6,000,) towards defraying the cost and trouble which might attend on going after and recovering their stock which might stray into the Territories in quest of pastures from which they were driven."

If it should be said that the losses have exceeded the expectations of the Cherokees at the date of the treaty, it may be answered that, in addition to the benefit of these stipulations, they have already received, under the act of 1832,	-	-	-	-	\$6,724 00
And under the act of 1834,	-	-	-	-	14,364 50
					21,088 50

a liberal allowance.

And if we allow what is claimed under this act,	-	-	-	-	13,419 50
					\$34,508 00

they will have received a full indemnification of all losses, as stated by themselves, without giving any credit for the treaty stipulations.

The committee are therefore of opinion that the errors or mistakes of former legislation have satisfied all claims on the liberality of the Government, and that there is no obligation of any kind on the United States that calls for, or would justify, their passage of the bill.

They therefore report that the bill be amended by striking out the enacting clause.

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[Senate Doc. No. 125, 25th Congress, 2d Session.]

Report from the Secretary of War, in compliance with a resolution of the Senate of the 16th instant, in relation to the claims of George Duval.

—◆—

DEPARTMENT OF WAR, *January 23, 1838.*

SIR: I have the honor to transmit, herewith, a report from the Commissioner of Indian Affairs, in answer to the resolution of the Senate of the 16th instant, in relation to the claim of George Duval.

Very respectfully, your most obedient servant,

J. R. POINSETT.

Hon. R. M. JOHNSON,
President of the Senate.

—◆—

WAR DEPARTMENT,

Office Indian Affairs, January 23, 1838.

SIR: In compliance with your direction, I have the honor to submit a report on the resolution of the Senate of the 16th instant.

The original papers relating to the claim of George Duval, for depositions alleged to have been committed upon his property, are herewith transmitted, and, with them, I beg leave to present a copy of a report of

the acting superintendent of the Western Territory, of other claims of a similar character. In the 5th article of the treaty of May 6, 1828, provision was made for the payment of claims of Cherokees, for spoliations to the amount of \$8,760, according to an account rendered by them, which sum was to be in full of all demands of like nature. By the act of July 13, 1832, however, an appropriation was made to pay unsatisfied claims of the individuals of the tribe therein named, for spoliations committed by citizens of the United States; and by the act of June 28, 1834, another appropriation was made "to remunerate the Western Cherokees for spoliations on their property, under the 5th article of the treaty of May 6, 1828." By the same act, a further appropriation was made "to compensate the Western Cherokees for stock and other property lost during their emigration, under the 8th article of the treaty of 1828." In that article, the United States stipulated to pay for the property the emigrating Cherokees might abandon. Thus far, the liability of the United States to remunerate these Indians for spoliations and losses has been recognised.

Very respectfully, your most obedient servant,

C. A. HARRIS, *Commissioner.*

Hon. J. R. POINSETT,
Secretary of War.

CHOCTAW AGENCY, *October 27, 1836.*

SIR: I herewith enclose the claim (with the testimony) of the late George Duval, a Cherokee Indian, for spoliation in stock. This claim was filed by Captain John Rogers, a merchant of Fort Smith, Arkansas, to whom the original claimant became indebted by the purchase of goods. The late Cherokee agent, in his lifetime, made out the statement enclosed, signed by himself, and addressed to my late predecessor; which paper was never transmitted, and found, a few days since, by Governor Stokes.

The claim is well supported by proof of General Arbuckle, Mr. Dillard, and other respectable individuals, and acknowledged by the Cherokee general council, now in session. At the request of Captain Rogers, I beg leave to submit the claim to the Department. I can, individually, say nothing of the claim, further than the authenticity of the papers, and the general impression of the justice of the claim.

Respectfully, your obedient servant,

WM. ARMSTRONG,
Acting Superintendent Western Territory,

C. A. HARRIS, Esq.,
Commissioner of Indian Affairs.

FORT SMITH, *December 29, 1834.*

DEAR SIR: Enclosed, herewith, you will find the depositions of Mrs. Sally T. Corder and Philip Duniho, in support of the claim of the late

George Duval, deceased, for lost stock, which you will be pleased to receive; and place with the other documents, in your office, relative to that matter.

I do not know that any further evidence can be got in support of it. I should, therefore, be glad you would act upon it.

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

JOHN ROGERS.

Captain GEO. VASHON,
Cherokee Agent.

THE UNITED STATES, INDIAN DEPARTMENT,

To the estate of George Duval, deceased, Dr.

For 300 head of cattle, at \$6 per head,	-	-	-	\$1,800 00
For 35 head of horses, at \$50 per head,	-	-	-	1,750 00
				<u>\$3,550 00</u>

I hereby certify that I was well acquainted with the above-named George Duval, a native Cherokee, who did reside on Little Frog, west of the Mississippi; from which place he was forced to remove, in consequence of a treaty made between the United States and the Arkansas Cherokee Indians, in May, 1828; and that, by his removal and sudden death, he did lose the above-stated quantity of cattle and horses; which property, from the best information, has been made way with by various citizens of the United States. I further certify that, from my personal acquaintance with the stock of cattle and horses above mentioned, I do not think them estimated at more than their value.

Given under my hand, this 10th February, 1832.

B. H. SMITH.

In presence of witness:

A. P. CHOUTEAU.

HEADQUARTERS, SOUTHWESTERN FRONTIER,

Fort Gibson, October 20, 1836.

SIR: In compliance with your wish to be informed of such facts as I possess in relation to the character and property of the late George Duval, (a Cherokee,) I can state that, soon after my arrival at Fort Smith, in the year 1822, I became acquainted with said Duval, who appeared to be a very respectable man, and was highly spoken of by the people of his own nation, as well as by citizens of the United States who were acquainted with him. He was then reported to be a man of considerable property, consisting principally of horned cattle and horses. He lived on Frog bayou, and I was at his house in the summer of 1822 or 1823, where I noticed a large number of cattle, which he claimed; and I am informed that he removed to the lands secured to his nation by a treaty

concluded with the United States on the 6th of May 1828, in the fall of the same year, and that he very soon thereafter died, without having removed but a small portion of his cattle from Frog bayou. Since that period, I have heard it frequently stated, by men of good character, that the property left by said Duval at Frog bayou had been destroyed or run off by some of our citizens, who settled at or near to his former residence. This, I believe, is all I know in relation to Mr. Duval or his property.

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

M. ARBUCKLE,

Brevet Brig. Gen. U. S. Army.

To Capt. JOHN ROGERS, *Present.*

TERRITORY OF ARKANSAS, }
County of Crawford. }

This day, Philip Duniho personally appeared before me; Jesse Turner, an acting justice of the peace within and for the county and Territory aforesaid, of lawful age, who, being duly sworn, deposed and saith: That he was well acquainted with George Duval, a Cherokee Indian, who resided on Little Frog bayou, within the present limits of Crawford county, Arkansas Territory, previous to the treaty held with the Cherokee Indians west of the Mississippi in 1828; and that he well knows that the said Duval, at the time of his removal in consequence of said treaty, left at or near his said residence a large number of horses and cattle, the precise number not known to this deponent; and that he well knows that a great many of said horses and cattle were killed and destroyed, and taken away, by citizens of Arkansas Territory; and further this deponent saith: adt.

PHILIP DUNIHO.

Sworn to and subscribed before me, this 13th August, A. D. 1834.

JESSE TURNER, J. P. [SEAL.]

TERRITORY OF ARKANSAS, }
County of Crawford. }

I, Alexander, McLean, clerk of Crawford circuit court, do hereby certify that Jesse Turner, before whom the foregoing deposition was taken, was an acting justice of the peace within and for the county of Crawford, at the time, duly commissioned; and that full faith and credit should be given to all his official acts as such.

In testimony whereof, I have hereunto set my hand, and affixed the [L. S.] seal of office, this 13th day of August, A. D. 1834.

A. McLEAN, *Clerk.*

ARKANSAS TERRITORY, }
Crawford County. }

I, the undersigned subscriber, do hereby certify that I settled myself at the place where George Duval, a native Cherokee, resided, on Little Frog bayou; from which place he was forced to remove, agreeably to a

treaty made in May, 1828, between the Cherokees west of the Mississippi river and the Government of the United States; and that there was a large quantity of horses and cattle left there by said Duval; which property has been killed, run off, and made way with, by various citizens of the United States, and, I believe, a great portion of them under the direction of James Ball, a citizen of this county.

Given under my hand and seal, January 21, 1832.

D. H. CORDER, *J. P.*

TERRITORY OF ARKANSAS, }
County of Crawford, } *to wit:*

I, George C. Pickett, clerk of the Crawford circuit court, do certify that David H. Corder, who has subscribed his name to the above instrument of writing, is, and was at that time, an acting justice of the peace, duly commissioned and qualified; and to all his official acts, as such, full faith and credit are and ought to be given; and I do further certify that the said David H. Corder is a gentleman of standing and reputation.

In testimony whereof, I have, as clerk of said court, hereunto set my hand and affixed the seal of office, this 30th day of January, A. D. 1832.

G. C. PICKETT, *Clerk.*

THE UNITED STATES, INDIAN DEPARTMENT,

To the estate of George Duval, deceased, Dr.

1828. For 300 head of cattle, at \$6 per head,	-	-	\$1,800 00
For 35 head of horses, at \$50 per head,	-	-	1,750 00
For 225 head of hogs, at \$2 per head,	-	-	450 00
			<u>\$4,000 00</u>

TERRITORY OF ARKANSAS, }
County of Crawford. }

This day, personally appeared before me, Jesse Turner, an acting justice of the peace within and for said county, Preston Lloyd and Alexander Boyd, who, being of lawful age, and duly sworn according to law, deposeth and saith: That they were intimately acquainted with George Duval, a native Cherokee west of the Mississippi; that he resided on Little Frog bayou; from which place he removed, agreeably to a treaty concluded between the chiefs of his nation and the United States Government, on the 6th of May, 1828, at Washington city; that they were well acquainted with the situation of his stock, and the manner in which it was left; and that, to their knowledge, owing to his sudden death, and the inability of his family to remove his stock, the number of cattle, horses,

and hogs, set forth in the above and foregoing account, were killed, run off, and destroyed, by the citizens of the Territory of Arkansas; and that the above estimated price for the said cattle, horses, and hogs, is a moderate and just valuation for the same.

ALEXANDER BOYD,
PRESTON LLOYD.

Sworn to and subscribed before me, this 15th April, 1834.

JESSE TURNER, J. P. [SEAL.]

TERRITORY OF ARKANSAS, }
County of Crawford. }

I, Alexander McLean, clerk of the circuit court of Crawford county, do hereby certify that Jesse Turner, before whom the within and foregoing affidavit of Preston Lloyd and Alexander Boyd purports to have been taken, was, at the time of taking said affidavit, and now is, an acting justice of the peace within and for the county aforesaid, duly commissioned and qualified according to law; and that full faith and credit are due all his official acts as such.

In testimony whereof, I have hereunto set my hand, and affixed the seal [L. s.] of office, this the 15th day of April, A. D. 1834.

A. McLEAN, Clerk.

TERRITORY OF ARKANSAS, }
County of Crawford. }

This day, Sally T. Corder personally appeared before me, Jesse Turner, an acting justice of the peace within and for the county of Crawford, aforesaid, of lawful age, who, being duly sworn, deposeth and saith: That she was well acquainted with George Duval, (a Cherokee Indian,) who resided on Little Frog bayou, (within the present limits of Crawford county,) previous to the treaty held with the Cherokee Indians west of the Mississippi, in 1828; that she knows well that the said Duval, when he removed in consequence of said treaty, left at or near his aforesaid residence a large number of horses and cattle, the precise number not known to this deponent, and that many of said horses and cattle were killed and destroyed by citizens of the Territory of Arkansas; and further this deponent saith not.

SALLY T. CORDER, her + mark.

Sworn to and subscribed before me, this 13th day of August, A. D. 1834.

JESSE TURNER, J. P.

TERRITORY OF ARKANSAS, }
County of Crawford. }

I, Alexander McLean, clerk of the Crawford circuit court, do hereby certify that Jesse Turner, before whom the foregoing deposition was

taken, was an acting justice of the peace within and for said county of Crawford at the time, duly commissioned, and that full faith and credit should be given to all his official acts as such.

In testimony whereof, I have hereunto set my hand, and affixed the [L. s.] seal of office, this 13th day of August, A. D. 1834.

A. McLEAN, Clerk.

FORT GIBSON, October 22, 1836.

In relation to the property left by George Duval, deceased, a Cherokee Indian, I give you the following statement :

In the summer of 1823 I arrived in this country, and shortly after became acquainted with said Duval, and have been at his residence frequently. He was in possession of considerable property, consisting of horses, cattle, and hogs, at his death, which, I think, has been entirely lost to his relatives and creditors, as it was left at his old residence, and there killed up and destroyed by the citizens who afterwards occupied the country.

JOHN DILLARD.

Acknowledged and subscribed at the Cherokee agency, this 22d day of October, 1836, before

M. STOKES,

Sub-agent for Cherokees.

FORT SMITH, April 16, 1834.

DEAR SIR: Having understood that you designed visiting Frog bayou before you return up to the agency, I have taken the liberty of enclosing to you the depositions of Preston Lloyd and Alexander Boyd, residents of Frog bayou, relative to the loss of stock by the late George Duval, a Cherokee, taken before Jesse Turner, a justice of the peace, which has just been handed to me. You will likely be in the neighborhood of the place at which this property was left by George Duval, and afterwards destroyed, and will, perhaps, have it in your power to ascertain and collect more facts relative to it.

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

JOHN ROGERS.

Captain GEO. VASHON,
Vanburn, Crawford county.

FORT SMITH, March 10, 1834.

DEAR SIR: Will you have the kindness to inform me whether any thing has yet been done in the claim of George Duval, deceased, for lost property in the exchange of country? I hold the deceased's note for a considerable amount; also, a power of attorney from the administrator of

the estate, to prosecute the claim. I will, therefore, consider it a favor if you will let me know when this claim will be acted on, that I may have a chance to secure my debt.

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

JOHN ROGERS.

Captain GEO. VASHON,
Cherokee Agent, Fort Gibson.

FORT SMITH, ARKANSAS TERRITORY,

May 10, 1835.

SIR: With a hope that I will be enabled to procure some further testimony, in addition to that already filed in your office, in support of the claim of the late George Duval, deceased, against the United States, for lost stock in the exchange of country, I have to request that you will be pleased to postpone, for the present, reporting on this claim until further advised, and oblige your friend and obedient servant,

JOHN ROGERS.

Captain GEO. VASHON,
Sub-agent, Cherokees, West.

TOLLUNTUSKY, October 24, 1836.

Captain John Rogers, of Fort Smith, State of Arkansas, has laid before the Cherokee national council, for consideration, the claim of George Duval, deceased, a Cherokee, which claim is for stock destroyed by United States citizens since the treaty of 1828.

The national committee has, therefore, taken up the claim for consideration, and examined it, with all the evidence offered, and the recommendation of Governor Stokes, United States agent, accompanying said claim. The committee have concurred with the agent's opinion upon the claim; and have, therefore, passed the claim, and recommend the payment of it by the United States Government; which will be paid to said Captain John Rogers, if paid by the said Government.

JOHN DREW,

President of the Committee.

WM. THORNTON, Clerk.

OCTOBER 24, 1836.

The council unanimously concur with the above opinion of the committee.

THOS. THUMB,

Chairman of Council.

RILEY THORNTON, Clerk of Council.

OCTOBER 24, 1836.

A true copy.

WM. THORNTON,
Clerk of National Committee.

TOLLUNTUSKY, *October 24, 1836.*

I approve of the proceedings of the committee and council, now in session, of the Cherokee nation west, in relation to the within-mentioned claim of George Duval, deceased, and desire that Captain W. Armstrong, superintendent of Indian affairs, will recommend the payment of said claim by the United States.

JOHN JOLLY, his + mark.

Attest: L. PRICE,
JOHN ROGERS.

WEST CHEROKEE NATION,

Sub-agent's Office, March 20, 1835.

SIR: I beg leave to present, for your official notice, the enclosed Cherokee claim for spoliation in stock, with the testimony offered in support of said claim: The claim is in the name of George Duval, a deceased Cherokee, and filed by Captain John Rogers, of Fort Smith, who holds an obligation of said Duval, given to the firm of Nicks & Rogers, for amount of his old debt to said firm, with authority from the administrator of said Duval to collect said amount out of the above claim, if it can be established and allowed by the Government.

The papers in the case, enclosed, embrace the account of George Duval *vs.* the United States.

For 300 head of stock cattle, at \$6, per head,	-	\$1,800 00
For 35 head of horses, at \$50 per head,	- -	1,750 00
For 225 head of hogs, at \$2 per head,	- -	450 00
		<hr/>
		\$4,000 00

With the affidavit of Alexander Boyd and Preston Lloyd, and, also, of Philip Duniho and of Sally T. Corder, together with the official certificate of Squire Corder, and a certified statement of B. H. Smith, all filed by said Captain Rogers, in support of said claim.

The letters of Captain John Rogers, relative to the above claim, are also enclosed, herewith, from which it appears that all the testimony he can obtain is now filed, and, therefore, he wishes an early decision of the case to be made; and for which purpose I beg leave to submit the whole of the papers filed in the case, that it may be accordingly disposed of as you may approve.

Respectfully, sir, your most obedient servant,

GEO. VASHON, *Sub-agent.*

Maj. F. W. ARMSTRONG,
Acting Superintendent Western Territory.

CHEROKEE AGENCY,

Fort Gibson, October 22, 1836.

To the chiefs and the council and committee of the Cherokee nation :

GENTLEMEN : The papers accompanying this letter are in support of claims for lost stock which belonged to the late George Duval, a Cherokee. You will find, among the papers, a report upon the case by the late Captain G. Vashon, former agent. I have examined the proofs, and think it is a very just claim, which demands your consideration; and I hope it will receive your recommendation for payment, if you find it just.

I am, respectfully, your obedient servant,

M. STOKES, *Sub-agent.*

CHEROKEE AGENCY,

Fort Gibson, January 23, 1837.

SIR : I enclose to you, through the office of the superintendent of Indian affairs for the Southwestern Territory, a schedule or register of stock lost by the Cherokee Indians, and which was stipulated to be paid for in the — article of the treaty of 6th May, 1828.

Early in the year 1834, Captain George Vashon, then Cherokee agent, transmitted to the War Department a schedule of claims for stock lost by the Cherokees, amounting to the sum of \$14,364 50; which was appropriated by an act of Congress of 28th June, 1834, but which never came to hand until November, 1836. Owing to the great difficulty and delay in the investigation of these claims, Captain Vashon was only able, in his lifetime, to perfect forty-eight additional claims, amounting to \$2,659 50; and, with great labor and perseverance, I have been enabled to examine forty-four additional claims, amounting to \$6,760; making, in the whole, the sum of nine thousand four hundred and nineteen dollars and fifty cents, (\$9,419 50.) These claims, I believe, comprehend the whole that will ever be applied for on this score; and as they stand precisely upon the same footing and proof as those of the \$14,364 50, I hope the appropriation will be made.

I am, sir, with great respect, your obedient servant,

M. STOKES,

Sub-agent for Cherokees.

C. A. HARRIS, Esq.,

Commissioner of Indian Affairs.

Received, January 28, 1837.

W. ARMSTRONG.

Forwarded to the Commissioner of Indian Affairs, February 3, 1837.

W. ARMSTRONG,

Acting Superintendent Western Territory.

Schedule of stock alleged to have been taken by citizens of the United States from the Cherokees west of the Mississippi since their removal from the country ceded by them to the United States, per treaty of the 6th of May, 1828; which property has been unavoidably lost to them, from the impossibility of saving it under the difficulties produced by the occupancy of the ceded country by citizens of the United States, before the Cherokee stock could be removed; and by their killing two Cherokees, and menacing others when endeavoring to find the stock they had not removed, or to recover the stock that had strayed back to its former range.

Number of claim.	Names of claimants.	Horses.	Steers.	Cows and calves.	Stock cattle.	Hogs.	Price per head.	Amount of each kind.	Amount of claim.	Evidence upon which the Cherokee council and examining committee investigated and decided claims to be fair and just.
242	Cabbin, - - -	2	-	-	2	9	-	-	\$50 50	Approved by council upon evidence of Looney Price.
243	Tesgannarluk, (Cross) Ditto, - - -	1	-	-	-	-	\$25 00 50	\$25 00 5 00	30 00	
244	Fodder, - - -	-	-	-	-	60	50	-	30 00	Approved by council upon evidence of Cross Wife. Approved by council upon evidence of Ned.
245	Te Kusha, (Hips), - - -	-	-	2	-	-	8 00	-	16 00	
246	She Cow, (Elders), Ditto, - - -	-	-	1	-	-	8 00 2 00	8 00 16 00	24 00	Approved by council upon evidence of Major Pullum and T. Campbell.
247	Mewl, - - - Ditto, - - -	1	-	-	-	-	20 00 3 00	20 00 24 00	44 00	
248	Little Jno. Rogers, Ditto, - - -	5	-	-	-	-	15 00 3 00	75 00 9 00	84 00	Approved by council upon evidence of James Casey. Approved by council upon evidence of French Jack.
249	Jack Crapo, - - - Ditto, - - -	23	-	-	-	-	10 00 3 00	230 00 69 00	299 00	
250	Thomas Envy, - - -	1	-	-	-	-	-	-	25 00	Approved by council upon evidence of Geo. Crapo, Swimmer, Young, Glass, and R. Stopper. Approved by council upon evidence of Wasp Envy.
251	Archilla, - - -	2	-	-	-	2	-	-	64 00	
252	Look at Us, - - - Ditto, - - -	2	-	-	3	-	20 00 3 00	40 00 9 00	49 00	[Archilla. Approved by council upon evidence of Swimmer, Elders, and

[Rep. No. 824.]

233	Oo-va-sta-ti,	-	-	-	-	15 00	30 00
	Ditto,	-	-	-	8	3 00	24 00
	Ditto,	-	-	-	5	1 00	5 00
254	Crying Buffalo,	-	-	-	-	-	-
255	Susannah,	-	-	-	-	20 00	100 00
	Ditto,	-	-	-	4	3 00	12 00
256	Bird Tail Duval,	-	-	-	-	-	-
257	Little Charles,	-	-	-	-	-	40 00
	Ditto,	-	-	-	5	3 00	15 00
258	Susan S. Wolf,	-	-	-	30	3 00	-
259	Wind,	-	-	-	1	-	-
260	Little Tarrapen,	-	-	-	3	25 00	-
261	Küttoklernuh,	-	-	-	3	4 00	-
262	Sarkeyah,	-	-	-	1	-	-
263	Keener,	-	-	-	1	-	-
264	Ootewuske,	-	-	-	1	2	-
265	Taky Duval,	-	-	-	1	-	-
266	Simon Girty,	-	-	-	7	20 00	140 00
	Ditto,	-	-	-	7	15 00	105 00
	Ditto,	-	-	-	3	8 00	24 00
267	Broom,	-	-	-	12	5 00	-
268	Ooloocha,	-	-	-	2	5 00	-
269	Oowdlookec,	-	-	-	1	15 00	15 00
	Ditto,	-	-	-	8	8 00	64 00
270	Hally,	-	-	-	9	-	-
271	Canoe Coming,	-	-	-	3	15 00	45 00
	Ditto,	-	-	-	5	3 00	15 00
	Ditto,	-	-	-	40	50	20 00
272	Ootarluke,	-	-	-	2	8 00	-
273	Demsey Fields,	-	-	-	1	-	20 00
	Ditto,	-	-	-	2	5 00	10 00

59 00 Approved by council upon evidence of Kullertoluti and Tail.
30 00 Approved by council upon evidence of Tail.

112 00 Approved by council upon evidence of Utanehar.
30 00 Approved by council upon evidence of Little Charles.

55 00 Approved by council upon evidence of Utanehar and Jack.
90 00 Approved by council upon evidence of Little Charles.
5 00 Approved by council upon evidence of Big Acorn.
75 00 Approved by council upon evidence of Oo-che-sko-Ji.
12 00 Approved by council upon evidence of Chusewuh.
15 00 Approved by council upon evidence of Pheasant.
30 00 Approved by council upon evidence of Halli and Ookluhhuh.
46 00 Approved by council upon evidence of Peter Peror.
8 00 Approved by council upon evidence of Karhelake.

269 00 Approved by council upon evidence of L. Refeld & Ulsootaki.
60 00 Approved by council upon evidence of Ootanehar & Keener.
10 00 Approved by council upon evidence of Glass.

79 00 Approved by council upon evidence of F. Jack, H. Bird, J. Duval, and Hips.
9 00 Approved by council upon evidence of Otter.

80 00 Approved by council upon evidence of Gillis Bags.
16 00 Approved by council upon evidence of Glass.

30 00 Approved by council upon evidence of J. and S. Duval and

[John Rogers.

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SCHEDULE—Continued.

Number of claim.	Names of claimants.	Horses.	Steers.	Cows and calves.	Stock cattle.	Hogs.	Price per head.	Amount of each kind.	Amount of claim.	Evidence upon which the Cherokee council and examining committee investigated and decided claims to be fair and just.
274	Chowayuker Bengé,	5	-	-	-	-	\$20 00	\$100 00	\$113 00	Approved by council upon evidence of Brainswid Tossel and N. Tossel.
	Ditto,	-	-	1	-	-	-	8 00		
	Ditto,	-	-	-	1	-	-	5 00		
275	Sequitchi,	-	-	-	-	6	1 00	-	6 00	Approved by council upon evidence of Chuloqua.
276	Lame Toosewolutuh,	2	-	-	-	-	25 00	-	50 00	Approved by council upon evidence of Big Tallassene and Beaver.
277	Whose Track,	1	-	-	-	-	-	-	20 00	Approved by council upon evidence of Salt Maker.
278	Listener,	1	-	-	-	-	12 00	12 00	116 00	Approved by council upon evidence of Stink Tail.
	Ditto,	-	-	3	-	-	8 00	24 00		
	Ditto,	-	-	-	16	-	5 00	80 00		
279	Quaky,	-	-	-	8	-	3 00	24 00	27 00	Approved by council upon evidence of Brewer and Glass.
	Ditto,	-	-	-	-	3	1 00	3 00		
280	Thos. Beng,	-	-	-	6	15	-	-	33 00	Approved by council upon evidence of Poor Sam.
281	Oo-cluh-hah,	-	4	-	-	-	25 00	100 00	148 00	Approved by council upon evidence of Little Charles and Ootanehah.
	Ditto,	-	-	-	8	-	5 00	40 00		
	Ditto,	-	-	-	-	4	2 00	8 00		
282	Isaac Rogers,	-	-	1	-	-	-	8 00	66 00	Approved by council upon evidence of Major Nelowi and B. Nelowi.
	Ditto,	-	-	-	5	-	5 00	25 00		
	Ditto,	-	-	-	-	33	1 00	33 00		
283	All Jack,	-	-	-	18	-	3 00	-	54 00	Approved by council upon evidence of Utahehah.
284	Tseyosa,	-	-	-	3	-	4 00	-	12 00	Approved by council upon evidence of Bear Climber.
285	Oolustari,	-	-	-	1	-	-	-	3 00	Approved by council upon evidence of Oowoteyohe.

286	Kullonoohaski,	-	2	-	-	-	15 00	30 00		
	Ditto,	-	-	-	1	-	-	8 00		
	Ditto,	-	-	-	-	4	5 00	20 00		
									58 00	Approved by council upon evidence of Geo. Crapo.
287	Poor Sam,	-	-	-	1	-	-	8 00		
	Ditto,	-	-	-	-	11	1 00	11 00		
									19 00	Approved by council upon evidence of Thomas Bengé.
288	Kartayuh,	-	1	-	-	-	-	-	25 00	Approved by council upon evidence of Nick Tossel.
289	Ned,	-	-	-	-	-	2 00	-	8 00	Approved by council upon evidence of Fodder.
290	Eliky Cross,	-	-	-	2	-	8 00	16 00		
	Ditto,	-	-	-	-	6	5 00	30 00		
	Ditto,	-	-	-	-	40	50	20 00		
									66 00	Approved by council upon evidence of Cross.
			89	8	20	187	259		\$2,659 50	

I certify, on honor, that I have used all diligence, by employing the best means within reach, to make a satisfactory investigation of the claims exhibited in the foregoing register, and believe that the claimants actually sustained the unavoidable loss, as stated therein; and, therefore, earnestly recommend the early payment of said claims.

AGENT'S OFFICE, 1st April, 1834.

GEORGE VASHON, Agent.

I certify, on honor, that the foregoing certificate and attestation is annexed to the schedule of the above claims, in the proper handwriting of Captain George Vashon, former sub-agent for the Cherokee nation.

M. STOKES, Sub-agent for Cherokees.

[Rep. No. 824.]

SCHEDULE—Continued.

Number of claim.	Names of claimants.	Horses.	Steers.	Cows and calves	Stock cattle.	Hogs.	Price per head.	Amount of each kind.	Amount of claim.	Evidence upon which the Cherokee council investigated and decided upon the claims to be fair and just.
1	Amount brought forward	89	8	20	187	259	-	-	\$2,659 50	
	Achia Vickory,	2	-	-	-	-	\$50 00	\$100 00		
	Ditto,	-	-	-	8	-	3 05	24 00		
	Ditto,	-	-	-	-	60	1 00	60 00	184 00	Admitted upon the claimant's statements, and the knowledge the committee had of the justness of the claim.
2	Tarnoo Kostuh, or Widow Rope,	2	-	-	-	-	32 00	64 00		
	Ditto,	-	-	2	-	-	8 00	16 00		
	Ditto,	-	-	-	-	20	2 00	40 00	120 00	Admitted upon the evidence of Bear's Paw and Broom.
3	Looney Tolluntusky,	-	-	-	19	-	5 00	95 00		
	Ditto,	-	-	-	-	30	1 00	30 00	125 00	Admitted upon the claimant's statement, and the knowledge the committee had of the justness of the claim.
4	Tote Kunnuh Will,	-	-	1	-	-	-	-	8 00	Admitted upon the evidence of Tobacco Will.
5	Kullami Campbell,	3	-	-	-	-	-	-	75 00	Admitted upon the evidence of Charles Campbell.
6	Sally Williams,	1	-	1	-	-	50 00	50 00		
	Ditto,	1	-	1	-	-	8 00	8 00		
7	Amos Hicks,	3	-	-	-	-	-	-	58 00	Admitted upon the evidence of Bear Climber and Deer Killer.
8	John Smith,	1	-	-	-	-	-	-	78 00	Admitted upon the evidence of Emry and Lame Foosewolutuh.
9	E. George,	1	-	-	-	-	-	-	85 00	Admitted upon the evidence of Jack McKensy.
10	Wm Thornton,	3	-	-	-	-	-	100 00	80 00	Admitted upon the evidence of James Holt.
	Ditto,	-	1	-	-	-	-	10 00		
11	Tobacco Will and his sisters,	3	-	-	-	-	55 00	110 00		
	Ditto,	-	-	-	-	80	1 00	80 00	190 00	Admitted upon the evidence of Campbell, Wind, and Bear's Paw.

11	Quatry, (of Bees Creek,)	1	-	-	-	-	-	-	-	-	30 00
12	Maria Drew, -	9	-	-	-	-	-	40 00	360 00		
	Ditto, -	-	-	13	-	-	-	8 00	104 00		
	Ditto, -	-	-	-	14	-	-	3 00	42 00		
13	Wannenohe Drew, -	1	-	-	-	-	-	-	60 00		
	Ditto, -	-	-	-	1	-	-	-	3 00		
	Ditto, -	-	-	-	-	15	-	-	19 00		
14	John Leek, -	1	-	-	-	-	-	-	50 00		
	Ditto, -	-	-	8	-	-	-	10 00	80 00		
	Ditto, -	-	-	-	3	-	-	8 00	24 00		
15	Ezekiel Fields, -	1	-	-	-	-	-	-	-		154 00
16	Thumbstall, -	7	-	-	-	-	-	20 00	140 00		60 00
	Ditto, -	-	-	-	20	-	-	3 00	60 00		
17	Samuel Wooster, -	1	-	5	-	-	-	-	-		200 00
18	John Rainstopper, -	5	-	-	-	-	-	60 00	-		90 00
19	Charles Coody, -	-	-	-	59	-	-	3 00	-		300 00
20	James Campbell, -	3	-	-	-	-	-	40 00	-		177 00
21	Bear's Paw, -	1	-	-	-	-	-	-	-		120 00
22	Caty Johnson, -	5	-	-	-	-	-	-	115 00		20 00
	Ditto, -	-	-	-	-	3	-	-	5 00		
23	Susy Candy, -	-	-	7	-	-	-	5 00	-		120 00
24	Waxy Lovet, -	-	-	2	-	-	-	8 00	16 00		35 00
	Ditto, -	-	-	-	-	6	-	-	15 00		
25	Cotekaway, -	-	-	-	5	-	-	7 00	-		31 00
26	Totequa, -	2	-	-	-	-	-	20 00	-		35 00
27	Tiyerhah, -	-	-	-	3	-	-	5 00	15 00		40 00
	Ditto, -	-	-	-	-	15	-	3 00	45 00		
28	Taryeski, -	4	-	-	-	-	-	30 00	120 00		60 00
	Ditto, -	-	-	-	-	24	-	-	70 00		
29	Chewonuh, -	3	-	-	-	-	-	20 00	-		190 00

Admitted upon the evidence of Bear's Paw.

Admitted upon the evidence of Samuel Mackey, William Drew, and Major Neloui.

Admitted upon the evidence of Richard Drew.

Admitted upon the evidence of Jack Girty.

Admitted upon the evidence of Glass.

Admitted upon the evidence of James Campbell.

Admitted upon the evidence of Rainstopper and Bear's Paw.

Admitted upon the evidence of Shannon and Williams.

Admitted upon the evidence of Thomas Candy.

Admitted upon the evidence of Justice and Looney.

Admitted upon the evidence of Wind.

Admitted upon the evidence of Crapo and Bad Ponch.

Admitted upon the evidence of Archibald Coody.

Admitted upon the evidence of Richard and William Drew.

Admitted upon the evidence of Black Coat and Fodder.

Admitted upon the evidence of Tiyerhah.

Admitted upon the evidence of Tobacco Will.

Admitted upon the evidence of Tobacco Will and Bear's Paw.

Admitted upon the evidence of A. Morton and Girt Jolly.

[Rep. No. 824.]

SCHEDULE—Continued.

Number of claim.	Names of claimants.	Horses.	Steers.	Cows and calves.	Stock cattle.	Hogs.	Price per head.	Amount of each kind.	Amount of claim.	Evidence upon which the Cherokee council investigated and decided upon the claims to be fair and just.
30	Jas. Coody, - -	1	-	-	-	-	-	-	\$30 00	Admitted upon the evidence of Girt Jolly and Richard Drew.
31	Ailsey Morris, - Ditto, - -	2	-	2	-	-	\$8 00	\$55 00 16 00	71 00	
32	Polly Morris, and Betsy Duval, - -	-	-	-	-	36	-	-	52 00	Admitted upon the evidence of Sunshine and Glass.
33	Waky Long Flank, -	4	-	-	-	-	30 00	-	120 00	Admitted upon the evidence of Climbing Bear and Nick Tossel.
34	Smoker Coola, - Ditto, - - Ditto, - -	-	3	6	-	-	8 00 8 00	48 00 24 00	78 00	Admitted upon the evidence of Climbing Bear and Long Flank.
35	Walter Webber's family, Ditto, - - Ditto, - -	23	-	-	-	-	25 00 3 00	575 00 795 00	1,460 00	
36	Eliza Fields, - -	2	-	-	-	-	30 00	-	60 00	Admitted upon the evidence of Climbing Bear, Major Nelowi, and Samuel Wooster, and the knowledge the committee had of the justness of the claim.
37	Richard Rogers, -	3	-	-	-	-	-	-	100 00	Admitted upon the knowledge the committee had of the justness of the claim.
38	Charles Rogers, Ditto, - -	3	-	-	24	-	29 00 3 00	87 00 72 00	159 00	Admitted upon the evidence of Elexan Pertuis.
39	Betsy Looney, - Ditto, - - Ditto, - - Ditto, - -	4	-	12	-	-	30 00 8 00	120 00 96 00	349 00	Admitted upon the evidence of Aaron Price and Jas. Campbell.
					11	-	3 00	100 00 33 00		

40	Thomas Hinum, Ditto,	-	-	2	-	-	8 00	16 00	
		-	-	-	8	-	3 00	24 00	
41	John Crossland, Ditto,	-	45	-	-	-	8 00	360 00	40 00
		-	-	-	113	-	3 00	339 00	
42	Liza Smith,	-	-	-	-	24	-	-	24 00
43	Betsy Justice,	-	3	-	-	-	20 00	-	60 00
44	Saky Williams	-	1	-	-	-	-	-	30 00
			197	65	76	737	776		\$9,419 50

Admitted upon the evidence of Elexan Pertuis.

Admitted upon the evidence of Quallukee, Archilla, and the testimony of white evidence.

Admitted upon the evidence of Maj. Pullum and Young Elders.

Admitted upon the evidence of Wasetekulleske.

Admitted upon the evidence of George Crapo and Little Charles.

Copy of a letter from the chiefs of the Cherokee nation, directed to the sub-agent of the Cherokees.

DECEMBER 20, 1836.

SIR: We have directed the claims for lost stock, under the treaty of 1828, to be laid before you for your examination, and approval if you find them just. We have taken great pains in examining these claims, and have reduced the price demanded by the claimants in every account. We confidently hope and trust that the Government of the United States will pay the amount, as we have reason to believe that these are the last claims that will be made by the Cherokees for lost stock, and because an appropriation was made in June, 1834, for the sum of \$14,364 50, upon precisely the same kind of claims, proved and examined in the same manner. After examining the claims, if you find them just, we rely upon you, as our agent, to use your best endeavors to have them paid by the Government of the United States.

We are, very respectfully, your friends and obedient servants,

JOHN JOLLY,
JOHN BROWN, } *Principal Chiefs.*
JOHN LOONY, }

To Gen. M. STOKES,

Sub-agent for the Cherokee nation.

H.

CHEROKEE AGENCY,

Fort Gibson, January 22, 1837.

I certify, on honor, that, in the foregoing schedule of claims of the Cherokees, for lost stock under the article of the treaty of the 6th May, 1828, it appears that the claims from No. 242 to No. 290, inclusive, amounting to the sum of two thousand six hundred and fifty-nine dollars and fifty cents, (\$2,659 50,) were passed by the council of the Cherokee nation, and approved by Captain George Vashon, former Cherokee sub-agent, as appears by his certificate annexed to the said schedule. I further certify, on honor, that the additional claims from No. 1 to 44, inclusive, amounting to the sum of six thousand seven hundred and sixty dollars, (\$6,760,) were passed by the Cherokee council, and submitted to me for approval. I have used all due diligence in examining the said claims, and believe that the claimants actually sustained the unavoidable losses therein stated; and do, therefore, earnestly recommend the early payment of the said claims, amounting, in the whole, to the sum of nine thousand four hundred and nineteen dollars and fifty cents, (\$9,419 50.)

M. STOKES,
Sub-agent for Cherokees.

A 1.

*Instructions to appraisers of Cherokee improvements.*DEPARTMENT OF WAR, *September 3, 1831.*

SIR: You are hereby appointed, in conjunction with Littlebury Hawkins, an appraiser, to assess the value of the property which may be abandoned by such of the Cherokee Indians, within the chartered limits of Georgia, as may be disposed to migrate to the country west of the Mississippi. Your compensation will be at the rate of one thousand dollars per annum while engaged in this business.

The treaty concluded 6th May, 1828, with the Cherokees west of the Mississippi, provides that a just compensation for the property he may abandon, to be assessed by persons to be appointed by the President of the United States, shall be given to each head of a family. It is to the execution of this provision of the treaty that your duties will be confined. It does not appear to me that any property must be necessarily abandoned, except the improvements on the land. All the personal property can, I presume, be disposed of without much loss. But, upon this subject, instructions have been given to ascertain the expectations of the Indians, and how far the construction above given will have a tendency to prevent their emigration. On the receipt of the necessary information, additional instructions will be issued, should they appear to be called for.

In the mean time, however, your assessment will extend only to the improvements upon the land; and, in estimating the value of these, confidence is placed in your judgment and experience. You will endeavor to act with perfect impartiality, to hear all the statements and estimates of the Indians, and to examine personally every thing pointed out to you. You will then determine the amount to be paid, influenced neither by a desire to be generous on the one hand, nor parsimonious on the other.

You will prepare duplicate rolls, in which you will enter, in separate columns, the name of each owner of land, its situation, the number of acres under improvement, distinguishing the different kinds thereof, the extent of the fences, the buildings, and any other improvement not herein enumerated, stating the value of each, and showing the aggregate of the whole. After you have finished your duties, you will transmit one of the duplicates to this Department; the other you will deliver to the superintendent. And you will, also, while engaged in this business, forward to the Bureau of Indian Affairs weekly returns, exhibiting your proceedings in the manner above pointed out.

It is desirable, in order to avoid the impositions to which the Indians are always liable, that no certificates of this valuation should be issued, but that the rolls themselves should furnish all the evidence upon the subject, until the appraisement is approved here, and the time and place of payment determined. You will endeavor to satisfy the Indians that this is the best course for them; but, should you not succeed, you will report the matter to this Department, and then, should it be considered best to postpone the payments until the Cherokees reach their new homes, so far as your estimates may appear to be reasonable, they will be approved, and you will be authorized to issue certificates, payable to

the owner of the property only, and to no other person except his legal representative in the event of his death.

Should you differ in opinion in any case, or should either of you be absent, the Indian agent may be called in to aid in the execution of this duty.

Benjamin F. Currey, of McMinnville, Tennessee, has been appointed superintendent for the removal of these Indians. The time and place of performing your duty will be determined by him. You will not proceed to its execution until you are advised by him that every thing is in readiness. Your account for your compensation, after being certified by the superintendent, will be paid upon your draft upon this Department.

I am, &c.

LEWIS CASS.

To JAMES M. C. MONTGOMERY, Esq.

[Mr. Hawkins did not accept this appointment, which was then conferred on William M. Davis, of Kentucky.]

A 2.

DEPARTMENT OF WAR,

April 11, 1832.

SIR: The officer at the head of the Indian Bureau has transmitted me the accompanying claims, which were forwarded by you to him for examination, and has stated his own views respecting them.

I return them to you, with his observations, without, however, entering into the consideration of the latter. The cases are of a nature which can only claim relief from Congress. They are not within the letter of the intercourse act, and this Department cannot determine their justice.

Very respectfully, &c.

LEWIS CASS.

Hon. A. H. SEVIER,
House of Representatives.

B.

DEPARTMENT OF WAR,

Office Indian Affairs, April 9, 1832.

SIR: I have the honor to make the following report on the various claims presented to you by the Hon. A. H. Sevier for spoliation of stock belonging to Cherokee Indians:

Claim of John W. Flowers—spoliation of stock, to wit:

150 head of cattle, at \$10,	-	-	-	-	\$1,500
200 hogs, at \$2,	-	-	-	-	400
31 horses, at \$35;	-	-	-	-	1,085

\$2,985

To establish this claim there is an affidavit by James Strong and Duncan Wilson, that they were well acquainted with the claimant and his stock ; that the account is correct, and that the claimant was hindered from gathering his stock, when compelled to remove in 1828, for fear of being killed by the Indians and whites, both blaming the said claimant for having been instrumental in making the treaty of May, 1828, with the Cherokees. There is an affidavit by the claimant that he has not received any portion of the six thousand dollars appropriated under the said treaty for defraying the cost and trouble of going after and recovering the stock of the Cherokees that might stray into the territory from which they were driven. There is also, in support of this claim, a letter from Colonel Arbuckle to the claimant, in which he states his having been told that when the Cherokees went in pursuit of their stock they were met by armed white men, who commenced hostilities against the Indians, killed one of them; wounded another, and compelled them to fly for safety, leaving their stock behind. That the feelings of the whites were so unfriendly to the Indians that they were afraid to go in search of the stock they had left or which had strayed from them, and that it was a general report that the white people were killing the cattle left by the Cherokees, and that many had been killed for the use of their hides. There is also a certificate, signed by nine persons, living in the country abandoned by the Cherokees, in which they state, from every information, the quantity of horses, cattle, and hogs, that has been run off, killed, and destroyed, by the various citizens of the United States, has been so great that it is impossible for them to make an estimate of the value thereof lost by them ; and to which certificate the clerk of Crawford county, in the Territory of Arkansas, has added his own, that the persons who have signed the said certificate are gentlemen of standing and reputation.

On the strength of the said affidavits and certificates, the foregoing claim is recommended for approval.

Claim of Nicholas Miller for spoliation of stock, to wit :

22 horses, at \$25, -	-	-	-	-	\$550 00
70 head of cattle, at \$5,	-	-	-	-	350 00
115 hogs, at \$1 50,	-	-	-	-	172 50
					<hr/>
					\$1,072 50
					<hr/>

In support of this claim there is an affidavit by George Mathews and Susan Mathews, that they know the account to be just and true, and that the claimant did lose that stock, removing to Lovely's purchase, agreeably to treaty made in May, 1828. The letter of Colonel Arbuckle and the certificates before mentioned refer also to this and all the following claims. This claim is also recommended for approval.

Claim of William Drew for spoliation of stock, to wit :

Six horses, at \$35,	-	-	-	-	\$210 00
Seventeen hogs, at \$2 50,	-	-	-	-	42 50
					<hr/>
					\$252 50
					<hr/>

This claim is also supported by two witnesses, who swear positively to the loss of the above amount of stock by the claimant's removal in pursuance of the said treaty, and is also recommended for approval.

Claim of Joseph Rogers for spoliation of stock, to wit:

28 horses, at \$30,	-	-	-	-	\$840
125 head of cattle, at \$8,	-	-	-	-	1,000
160 hogs, at \$2,	-	-	-	-	320
18 sheep, at \$3,	-	-	-	-	54
4 mules, at \$50,	-	-	-	-	200
					\$2,414

This claim is also proved by the testimony of two persons, who depose that the claimant lost the above stock; was worth the amount charged: This claim is also recommended for approval.

The several claims of David Gentry, Martin Drew, Peter May, Chicken Cock, William Vickry, John Rogers, Loony Tullintusky, Charles Rogers, and William Rogers, are disallowed for want of proof; the witness swearing not to positive loss, but merely to a belief of loss.

Very respectfully, &c.

ELBERT HERRING.

C.

WAR DEPARTMENT,

Office Indian Affairs, December 18, 1832.

GENTLEMEN: By the 5th article of the treaty with the Cherokees of May 6th, 1828, eight thousand seven hundred and sixty dollars were provided for, to recompense them for spoliations committed by the Osages and citizens of the United States. This sum was paid to Major Duval, then the agent for this tribe, May 30, 1828, by whom a part only was disbursed, and the balance remains charged to him upon the books of the Treasury.

At the last session, by an act dated July 13, 1832, Congress provided for the payment of such amounts as should be ascertained to be due to John W. Flowers, Nicholas Miller, William Drew, and Joseph Rogers; under which act five thousand six hundred and fifty-one dollars and fifty cents were paid to Mr. Flowers for himself, and as attorney of all the others, except N. Miller. The agent, Captain Vashon, has been instructed to inform Mr. Miller that the amount due to him is subject to his order.

It having been intimated to the Department that there yet remain other claims for spoliations, for which provision should be made, I have been instructed to request that you will give notice to the holders of such claims to present them forthwith to you for examination. This examination will probably be attended with trouble, but it is the only mode by which the rights of the Indians and the means of the Government can be properly guarded. You will please to report the claims you approve, accompanied by such statements of the circumstances of each as will enable the Department to act promptly and finally upon them.

I am, gentlemen, &c.

ELBERT HERRING.

To Messrs. STOKES, ELLSWORTH, and SCHERMERHORN,
Commissioners, &c.

D.

Extract of a letter from M. Stokes, H. L. Ellsworth and J. F. Schermerhorn, Commissioners &c., to the Secretary of War, of the 16th April, 1833.

In reference to the claims of the Cherokees west, under the treaty of 1828, referred to us by the War Department, the commissioners would respectfully observe that, to avoid delay, they have requested Captain Vashon, in whose capacity and integrity they have great confidence, to collect and arrange the vouchers and testimony upon which these claims are founded, so that they may all be presented at the same time, with the vouchers relied upon for their support.

E.

DEPARTMENT OF WAR,

Office Indian Affairs, August 10, 1833.

SIR: In December last, the commissioners at Fort Gibson were instructed to give notice to persons having claims against the Cherokees for spoiliations, to present them for their examination. In a communication recently received, these gentlemen state that they have requested you to collect and arrange the vouchers and testimony upon which these claims are founded. They seem to have supposed that the claims to be investigated were claims under the treaty of 1828. This was not the intention of the Department. The object was to prevent the constant transmission to this office of claims for which no provision has been made. And before you proceed to fulfil the request of the commissioners, I am instructed by the Secretary of War to direct you to report the general character and probable amount of these claims, the original claimants, and the present holders, and the circumstances of the transfer, so far as they can be ascertained. In this report you will not embrace claims of Indians upon Indians; the settlement of these must be made by themselves, in their own way, and with their own means. When the information now required is received from you, such specific instructions will be given as the case may require.

Very, &c.

D. KURTZ,

Acting Commissioner, &c.

To Captain GEORGE VASHON,
Fort Gibson, Arkansas Territory.

F.

Schedule of stock alleged to have been taken by citizens of the United States from the Cherokees west of the Mississippi, since their removal from the country ceded by them to the United States, per treaty of May 6, 1828; which property has been unavoidably lost to them, from the impossibility of saving it under the difficulties produced by the occupancy of the said ceded country by United States citizens, before the Cherokee stock could be removed, and by their killing two Cherokees, and menacing others, when endeavoring to find the stock they had not removed, or to recover the stock that had strayed back to its former range.

	Names of claimants.	Horses.	Steers.	Cows and calves.	Stock cattle.	Hogs.	Price per head.	Amount for each kind.	Amount of claim.	Evidence upon which the Cherokee council investigated and decided claims to be fair and just, remarks, &c.
1	Big Canoe, - - -	4	-	-	-	-	\$25 00	\$100 00	-	Approved by council upon testimony of Dick Toney, and the knowledge the council had of the justness of the claim.
	Ditto, - - -	-	-	-	3	-	5 00	15 00		
	Ditto, - - -	-	-	-	-	24	1 00	24 00		
2	Black Gun,	-	-	-	-	-	-	-	\$139 00	

The schedule contains in the whole 241 claims, amounting to \$14,314 50; and to which is annexed the following certificate.

G.

I certify, on honor, that I have used all due diligence, by employing the best means within reach, to make a satisfactory investigation of the claims exhibited in the foregoing register, and believe that the claimants actually sustained the unavoidable loss as therein stated, and therefore earnestly recommend the early payment of said claims.

GEO. VASHON,
Indian Agent, Cherokees West.

WEST CHEROKEE NATION, Agent's Office, April 1, 1834.

H.

Letter from Cherokee Chiefs to Agent, accompanying the foregoing claim.

SIR: The council of the nation will hand you some claims for stock unavoidably lost by the Cherokees, when and after moving under the treaty 1828, which have been laid before the national council for examination, and all of them have been thoroughly investigated by the council, and the true amount of each accurately ascertained, as the claims will show; you will observe, also, that each kind of stock lost is put at a reasonable price. The claims which the council will hand you have been investigated and passed by the council as just claims, and we trust they will meet with no objections, when presented to the Hon. U. S. commissioners, which you will please to do as soon as practicable.

You will please to insist upon the claims being paid, and give them as fair a recommendation as possible.

The Cherokees consider themselves entitled to pay for their lost stock, as it was lost in consequence of their having to move under treaty of 1828. They complain that the greater part of their stock strayed back after moving it, and when they went in pursuit of it, the white people became very cross, and finally killed some of our people, while hunting after their left and strayed stock, which circumstances put a total stop to further pursuit; consequently, their stock was lost. We presume you are not unaware of some of the facts we have stated.

We hope compensation will be made, as claims of the same nature have already been paid by the Government.

Yours, respectfully,

JOHN JOLLY,
BLACK COAT,
WALTER WEBBER,

Principal Chiefs Cherokee Nation.

WM. THORNTON,
Secretary Cherokee Nation.

Capt. GEO. VASHON,
U. S. Agent.

I.

Extract of a letter from George Vashon, agent, to the Commissioner of Indian Affairs, dated April 1, 1834.

In obedience to the instructions of 11th August last, I have the honor to report, herewith, a register of the Cherokee claims for stock unavoidably lost since treaty of 1828, as far as I have been able to progress in the investigation required.

These claims were satisfactorily investigated, pursuant to my request, by the national council, and finally reduced, comparatively, to a small amount; and have since been further reduced by my subsequent reinvestigation of them. They have been investigated upon Indian state-

ments in open council, where one or more of the members were acquainted with the facts and character of each particular case; many witnesses in each case were examined, and principal ones noted, and I confidently believe that the investigation had approaches as near a just estimate as if they had been investigated in a court of justice. The register exhibits a loss of 292 horses, 149 steers, 169 cows and calves, 642 head of stock cattle, and 1,612 head of hogs, amounting, as per estimate, to \$14,864 50; making an average of \$25 per horse, near \$5 per head for cattle, and \$1 50 per head for hogs.

The evidence exhibited in support of these claims, I confidently believe, entitles them to the most favorable consideration; and that, for losses thus sustained, the Cherokees have a high claim upon the justice of the Government for equitable remuneration; and believing that the register of said claims, now presented, exhibits nothing more than a just estimate for losses unavoidably sustained by the respective claimants, I earnestly recommend the early payment of them. To which I should add, that the whole of the claimants are Cherokees, and that nine-tenths of them are full-blood Indians; and that speculators prefer having a power of attorney to a transfer; but I am not apprized that such are yet obtained, as it is rather too early to engage in the speculation.

There are also a number of claims of this description, amounting to about ten thousand dollars more, that were not investigated by the council, but the addition of which, after investigation, will no doubt increase the gross amount to \$25,000. And, I would therefore beg leave to recommend that an appropriation for the whole amount be asked for, to provide for the payment of the rest of said claims, upon satisfactory investigation hereafter, as well as for those already investigated for register.

Most respectfully submitted, sir, your obedient servant.

W. M. THORNTON,
Secretary Cherokee Nation.

U. S. Agent,
Cherokee Nation.

Extract of a letter from George Hudson, agent to the Commissioner of Indian Affairs, dated April 1, 1834.

It appears to the instructions of His Honor that I have the honor to report, herewith a register of the Cherokee claims for stock destroyed by loss since treaty of 1828, as far as I have been able to procure in the investigation required. These claims were submittedly investigated, pursuant to my orders by the national council, and duly reduced, comparatively, in a well-arranged and have since been further reduced by my agent, Hudson's treatment of them. They have been investigated upon the same