

In the United States Court of Claims.

DECEMBER TERM, 1904.

JOHN T. AYRES, Executor of the Estate of Eli Ayres, Deceased,	} <i>Claimant,</i>	No. 11,903. Congressional.
v. THE UNITED STATES.		

CLAIMANT'S REQUESTS FOR FINDINGS OF FACT.

The claimant, considering the facts hereinafter set forth to be proven, and deeming them material to the due presentation of this case in the findings of fact, requests the Court to find the same as follows:

I.

That said Eli Ayres, claimant's decedent, departed this life on the 3d day of September, 1890, in the County of Kaufman, State of Texas, leaving a last Will and Testament, a certified copy of which is attached hereto, made a part hereof, and marked "Exhibit B," to the petition.

Clover's Report, No. 2113, H. R. 52d Cong., 1st Sess., p. 2.

Harris's Deposition, p. 2.

That in the said last Will and Testament of the decedent provision is made for the distribution of the proceeds of

this claim, and also for the appointment of an executor as follows:

Item 2nd. All outstanding debts and the claims I now have or may have had before the Congress of the United States of America, together with the land now owned by me in the State of Mississippi, to be equally divided between my children as follows, to wit: A. E. Johnson, B. O. Ayres, J. T. Ayres, W. E. Ayres, Mary Adler, Charley C. Ayres, Nellie Bartlett, and Ollie B. Jackson, and I furthermore give and bequeath to the heirs of Zelora Osborn, ten dollars, and the heirs of Isadora Osborn (Frank and Carrie) one hundred dollars, to be paid out of any claims that may be due and paid hereafter out of the claims now pending at Washington, D. C.

Item 3d. I hereby appoint my son J. T. Ayres of said Kaufman County, State of Texas, my executor of this my last Will and Testament, without security, this Oct. 11, 1887.

Exhibit B to petition.

II.

That the claimant was on the 20th day of November, 1890, appointed executor of the estate of Eli Ayres, deceased, by the County Court of Kaufman County, in the State of Texas, and duly qualified on the said date as such executor, and brings this suit as such executor, and also brings into Court his warrant of authority as such executor and makes it "Exhibit A" to this petition.

III.

That pursuant to the fifth article of the treaty of May 24, 1834, there were reserved and located for the following-named Chickasaw Indians, heads of families, who were

duly listed and enrolled for the purpose (See Book 13, pp. 83 to 88), sections and parcels of land in the State of Mississippi, to which the said Indians thereby acquired the title respectively, as follows:

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.
1256	Te yah pa.....	5	11	7 E
1256	Te yah pa.....	6	11	7 E
1256	Te yah pa.....	7	11	7 E
1257	Coo cha tubby.....	17	25	6 E
1257	Coo cha tubby.....	18	25	6 E
1258	Oke lah ma ho na.....	8	23	9 E
1258	Oke lah ma ho na.....	17	23	9 E
1258	Oke lah ma ho na.....	18	23	9 E
1260	Ah tish ka.....	15	25	6 E
1260	Ah tish ka.....	22	25	6 E
1264	To ni yea.....	15	4	9 W
1264	To ni yea.....	22	4	9 W
1266	Il lah wah to na.....	21	25	6 E
1266	Il lah wah to na.....	27	25	6 E
1266	Il lah wah to na.....	28	25	6 E
1269	Ka lan ta.....	26	4	10 W
1269	Ka lan ta.....	27	4	10 W
1271	Pah ka moby.....	2	25	7 E
1271	Pah ka moby.....	3	25	7 E
1273	Con she ho yea.....	22	10	6 W
1273	Con she ho yea.....	23	10	6 W
1275	Wi o ka.....	12	23	8 E
1275	Wi o ka.....	13	23	8 E
1277	Won tubby	22	23	8 E
1277	Won tubby	23	23	8 E
1279	Ah no la chubby.....	2	24	7 E
1279	Ah no la chubby.....	11	24	7 E
1281	Ho ti yea.....	20	11	8 E
1281	Ho ti yea.....	29	11	8 E
1283	No wah ho nah.....	16	22	10 E
1283	No wah ho nah.....	17	22	10 E
1285	Ho yan na.....	11	22	9 E
1285	Ho yan na.....	14	22	9 E
1287	Sti mo non cha.....	2	23	8 E
1287	Sti mo non cha.....	35	24	8 E
1289	E to ti yea.....	7	24	8 E
1289	E to ti yea.....	8	24	8 E
1291	Kah ne ah tubby.....	5	21	12 E
1291	Kah ne ah tubby.....	8	21	12 E
1293	U quah tubby.....	7	16	3 E
1293	U quah tubby.....	8	16	3 E
1295	Oke chi yea.....	5	4	11 W
1295	Oke chi yea.....	6	4	11 W
1297	Fah lah ma tubby.....	3	10	6 W
1297	Fah lah ma tubby.....	9	10	6 W

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.
1297	Fah lah ma tubby.....	10	10	6 W
1300	E yah nubby.....	2	25	6 E
1300	E yah nubby.....	3	25	6 E
1302	Tah lun ta.....	25	4	5 W
1302	Tah lun ta.....	30	4	5 W
1308	Tim ah hoth la.....	6	4	10 W
1308	Tim ah hoth la.....	7	4	10 W
1309	Mo mah ubby.....	19	4	10 W
1309	Mo mah ubby.....	30	4	10 W
1312	Steim mo ho letty.....	28	8	10 W
1312	Steim mo ho letty.....	29	8	10 W
1315	Mat tah	1	4	10 W
1315	Mat tah	11	4	10 W
1315	Mat tah	12	4	10 W
1320	Took a loo ars tubby.....	26	3	10 W
1320	Took a loo ars tubby.....	27	3	10 W
1324	Ish to in ah.....	2	5	11 W
1324	Ish to in ah.....	3	5	11 W
1325	Shim me in yea.....	1	5	11 W
1325	Shim me in yea.....	12	5	11 W
1330	Kle tah	20	6	9 W
1330	Kle tah	29	6	9 W
1331	Fah la mo tubby.....	13	7	10 W
1331	Fah la mo tubby.....	24	7	10 W
1341	Tus car no tubby.....	31	6	12 W
1341	Tus car no tubby.....	32	6	12 W
1341	Tus car no tubby.....	33	6	12 W
1353	Oquah la pom by.....	26	8	10 W
1353	Oquah la pom by.....	35	8	10 W
1355	Clun o chee.....	20	8	10 W
1355	Clun o chee.....	21	8	10 W
1356	Fah la mer.....	24	8	10 W
1356	Fah la mer.....	25	8	10 W
1356	Fah la mer.....	26	8	10 W
1365	Shoom a cher.....	33	6	11 W
1365	Shoom a cher.....	32	6	11 W
1369	Cle tah	11	3	10 W
1369	Cle tah	12	3	10 W

IV.

That pursuant to the sixth article of the treaty of May 24, 1834, there was reserved and located for each of the following-named Chickasaw Indians, not heads of families, who was duly listed and enrolled for the purpose (see Book 13, pp. 130 to 136), a section or parcel of land in the State

of Mississippi, to which the said Indians thereby acquired the title, respectively, as follows:

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.
598	Um mo mi sho lubby.....	33	10	7 W
600	Shah tim ah	16	4	4 E
602	Pee lee che	14	8	4 W
604	Gilbert	16	7	5 W
605	Paf can chah	7	4	5 W
607	Wesley	16	2	10 E
608	Ta shie ka	16	4	6 E
610	Im mah ho yea.....	2	10	8 W
611	James Carnes	16	11	1 W
613	Ish tah pah ka.....	11	10	6 W
614	Ah to bo tubby.....	16	2	6 E
616	Pis ah ho kah.....	20	25	7 E
617	She mah	33	24	8 E
619	Ah took lah	16	14	5 E
622	Can she tah	16	7	5 E
623	Ah pah ho ta.....	16	5	4 E
625	To ho yea.....	16	3	4 E
626	Bah no yea	16	7	4 E
628	Pa ha la cha	7	10	6 W
629	E ah ho to na.....	8	10	6 W
631	Yo ka	23	16	3 E
634	Phil le mah.....	6	10	8 W
635	Pah cah no la.....	1	1	5 W
637	Cun in tee nah.....	16	2	5 W
638	Chuck a mah ho kah.....	7	4	11 W
640	Che she ho ke ty.....	11	7	12 W
641	Im mo ho yea.....	10	7	12 W
643	Te ah lah ma.....	22	7	12 W
644	Wah tubby	9	7	12 W
646	Che ho yea	21	24	8 E
647	Ish te kah cha.....	17	24	7 E
649	Ish ta ti yea.....	17	4	11 W
650	Oke lah in tah.....	23	4	11 W
652	Opah kah to mah.....	35	4	10 W
653	Tam by	16	6	2 W
655	Im lun nah	16	9	2 E
659	We tubby	16	4	7 E
660	Shah ah yah cubby.....	20	4	7 E
661	Ish ta ka te.....	29	11	6 W
662	To wah ka	19	11	6 W
663	Che ho yea	21	10	6 W
664	Kam pil lah to na.....	26	4	9 W
665	Pan ya hon ah.....	16	3	6 W
666	Lucy	16	13	3 E
667	Po kah	20	10	6 W
668	E yah hon tubby.....	16	7	1 W
669	In tubby	3	3	10 E
670	Ah muck a ah by.....	16	8	5 E
671	Ish te tah yea.....	15	2	9 W
672	Po shaw tubby.....	23	4	9 W

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.
673	In ch lah.....	16	4	6 W
674	Sal	16	5	6 W
676	Mah field	16	4	3 E
677	Me kah chi.....	11	9	6 W
679	Ah no wah tubby.....	24	3	10 E
680	Ho yah ti	16	10	7 E
681	Pish ah ho key.....	5	22	10 E
682	On ah ho chy.....	24	9	5 W
683	Ah che la tah.....	33	4	9 W
684	E lah fa nah.....	36	4	9 W
685	Tun up ah umby.....	31	14	1 E
686	Tun mal la cha.....	16	3	3 E
687	Ah kah fal lah.....	16	2	3 E
688	Pis tim ah ho nah.....	16	14	3 E
689	E lah pah ho key.....	32	14	1 E
690	Tul lo wah chey.....	23	9	5 W
691	Ul lah ho ky.....	16	5	7 E
692	Hilth lah la chy.....	30	4	11 W
693	Ho chy	35	4	9 W
694	Cook shah koon nah.....	33	14	1 E
695	Ho yah ti ye.....	4	22	10 E
696	Yo nah	16	9	6 W
697	Yo key	26	4	11 W
698	Shal lah	16	5	9 W
699	E mah by	3	22	10 E
700	May tubby	13	10	6 W
702	Phe man tah	16	11	7 E
704	In chaf fah tubby.....	16	7	3 W
705	Chee Wah	25	10	6 W
706	Oke pah	16	13	4 E
710	Mah tah cha	14	8	10 W
711	Ah no hah cha.....	16	4	9 E
712	Sammy	16	6	1 W
713	Ben Allen	16	9	1 W
714	Peggy Conley	16	7	7 E
715	Arte Conley	16	8	7 E
716	Robert Hancock, Jr.....	16	9	7 E
717	Nat Graham	4	11	6 W
719	Aley Hancock	14	4	9 W
720	O nah lah umby	16	10	8 E
721	In cho theah	17	21	11 E
725	Wah ka hi yea.....	16	11	1 E
726	Wy O Ka	4	21	11 E
727	Ah kah nah la.....	6	21	11 E
728	Ah bah la tubby.....	5	23	8 E
729	Ish mah tubby.....	16	8	1 W
730	Tish O wah.....	35	11	8 E
731	Ish tin ul lah.....	16	8	8 E
732	No wah ho nah	16	8	1 E
733	Ish tim mo nan chy.....	8	4	12 W
735	Ho yah na	3	21	11 E
736	Ah fah man tin ah.....	4	4	11 W
737	Shuch o yea.....	6	8	10 W
739	Mary McIntosh	32	3	4 W
745	Ah yin min ta.....	9	21	11 E

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.
747	Ho yea	1	15	1 E
754	O Kah pah	9	4	11 W
758	I E Kiubby.....	25	7	12 W
763	Sham pa	28	6	12 W
764	Tus ka ar ker.....	18	7	10 W
769	Lop pish	23	3	10 W
776	Ba o nah tubby.....	23	5	11 W

Rep. Com. Crawford, Apr. 12, 1841, pp. 15-17, printed in Teller's Report as Exhibit "C," pp. 11-15, No. 466, 57th Cong., 1st Sess. (Stat. and Abst. Ev., p. 11); Rep. Com. Price, April 19, 1882, p. 7; Rep. Com. Crawford, April 12, 1841, p. 17; Certificate Register Edmonson (Stat. and Ab. Ev., p. 17); Rep. Mr. Gifford, Aug. 12, 1890, H. R. No. 2959, 51st Cong., 1st Sess., pp. 4-5 (Stat. and Abs. Ev., pp. 30-33); Exhibits 1 to 18 to Dep. of Simon Wolf; Rep. Mr. Clover, No. 2113, H. R. 52d Cong., 1st Sess. (Stat. and Ab. Ev., p. 41); Mr. Teller's R., No. 466 (Stat. and Ab. Ev., p. 46).

V.

That Eli Ayres, now deceased, purchased at various dates in the months of May and June, in the year 1839, from the Chickasaw Indian reservees named in the tabulated statements set out in the preceding requests numbered III and IV, the respective sections and parcels of land situated in the State of Mississippi, and described in said statements, and paid to said Chickasaw Indians severally a fair and valuable consideration therefor, namely \$800 per section, or \$1.25 per acre, and by virtue of said purchase and the original deeds of conveyance signed, sealed, and delivered to him by said Indians, respectively, the said original deeds having been produced as evidence herein, acquired the title to the said several sections and parcels of land, as more particularly described and shown by the following tabulated statement, to-wit:

UNDER THE FIFTH ARTICLE OF THE TREATY.

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.	NAME OF PURCHASER.	PAID BY ELI AYRES.
1256	Te yah pa.....	5	11	7 E	Eli Ayres...	\$2,400.00
1256	Te yah pa.....	6	11	7 E		
1256	Te yah pa.....	7	11	7 E		
1257	Coo cha tubby.....	17	25	6 E	Eli Ayres...	1,600.00
1257	Coo cha tubby.....	18	25	6 E		
1258	Oke lah ma ho na..	8	23	9 E	Eli Ayres...	2,400.00
1258	Oke lah ma ho na..	17	23	9 E		
1258	Oke lah ma ho na..	18	23	9 E		
1260	Ah tish ka.....	15	25	6 E	Eli Ayres...	1,600.00
1260	Ah tish ka.....	22	25	6 E		
1264	To ni yea.....	15	4	9 W	Eli Ayres...	1,600.00
1264	To ni yea.....	22	4	9 W		
1266	Il lah wah to na..	21	25	6 E	Eli Ayres...	2,400.00
1266	Il lah wah to na..	27	25	6 E		
1266	Il lah wah to na..	28	25	6 E		
1269	Ka lan ta.....	26	4	10 W	Eli Ayres...	1,600.00
1269	Ka lan ta.....	27	4	10 W		
1271	Pah ka moby.....	2	25	7 E	Eli Ayres...	1,600.00
1271	Pah ka moby.....	3	25	7 E		
1273	Con she ho yea....	22	10	6 W	Eli Ayres...	1,600.00
1273	Con she ho yea....	23	10	6 W		
1275	Wi o ka.....	12	23	8 E	Eli Ayres...	1,600.00
1275	Wi o ka.....	13	23	8 E		
1277	Won tubby	22	23	8 E	Eli Ayres...	1,600.00
1277	Won tubby	23	23	8 E		
1279	An no la chubby... 2	24	7	7 E	Eli Ayres...	1,600.00
1279	Ah no la chubby... 11	24	7	7 E		
1281	Ho ti yea.....	20	11	8 E	Eli Ayres...	1,600.00
1281	Ho ti yea.....	29	11	8 E		
1283	No wah ho nah...	16	22	10 E	Eli Ayres...	1,600.00
1283	No wah ho nah...	17	22	10 E		
1285	Ho yan na.....	11	22	9 E	Eli Ayres...	1,600.00
1285	Ho yan na.....	14	22	9 E		
1287	Sti mo non cha....	2	23	8 E	Eli Ayres...	1,600.00
1287	Sti mo non cha....	35	24	8 E		
1289	E to ti yea.....	7	24	8 E	Eli Ayres...	1,600.00
1289	E to ti yea.....	8	24	8 E		
1291	Kah ne ah tubby..	5	21	12 E	Eli Ayres...	1,600.00
1291	Kah ne ah tubby..	8	21	12 E		
1293	U quah tubby.....	7	16	3 E	Eli Ayres...	1,600.00
1293	U quah tubby.....	8	16	3 E		
1295	Oke chi yea.....	5	4	11 W	Eli Ayres...	1,600.00
1295	Oke chi yea.....	6	4	11 W		
1297	Fah lah ma tubby..	3	10	6 W	Eli Ayres...	2,400.00
1297	Fah lah ma tubby..	9	10	6 W		
1297	Fah lah ma tubby..	10	10	6 W	Eli Ayres...	1,600.00
1300	E yah nubby.....	2	25	6 E		
1300	E yah nubby.....	3	25	6 E	Eli Ayres...	1,600.00
1302	Tah lun ta.....	25	4	5 W		
1302	Tah lun ta.....	36	4	5 W	Eli Ayres...	1,600.00

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.	NAME OF PURCHASER.	PAID BY ELI AYRES.
1308	Tim ah hoth la....	6	4	10 W	Eli Ayres...	1,600.00
1308	Tim ah hoth la....	7	4	10 W		
1309	Mo mah ubby.....	19	4	10 W	Eli Ayres...	1,600.00
1309	Mo mah ubby.....	30	4	10 W		
1312	Steim mo ho letty..	28	8	10 W	Eli Ayres...	1,600.00
1312	Steim mo ho letty..	29	8	10 W		
1315	Mat tah	1	4	10 W	Eli Ayres...	2,400.00
1315	Mat tah	11	4	10 W		
1315	Mat tah	12	4	10 W		
1320	Took a loo ars tubby	26	3	10 W	Eli Ayres...	1,600.00
1320	Took a loo ars tubby	27	3	10 W		
1324	Ish to in ah.....	2	5	11 W	Eli Ayres...	1,600.00
1324	Ish to in ah.....	3	5	11 W		
1325	Shim me in yea....	1	5	11 W	Eli Ayres...	1,600.00
1325	Shim me in yea....	12	5	11 W		
1330	Kle tah.....	20	6	9 W	Eli Ayres...	1,600.00
1330	Kle tah.....	29	6	9 W		
1331	Fah la mo tubby...	13	7	10 W	Eli Ayres...	1,600.00
1331	Fah la mo tubby...	24	7	10 W		
1341	Tus car no tubby...	31	6	12 W	Eli Ayres...	2,400.00
1341	Tus car no tubby...	32	6	12 W		
1341	Tus car no tubby...	33	6	12 W	Eli Ayres...	1,600.00
1353	Oquah la pom by...	26	8	10 W		
1353	Oquah la pom by...	35	8	10 W	Eli Ayres...	1,600.00
1355	Clun o chee.....	20	8	10 W		
1355	Clun o chee.....	21	8	10 W	Eli Ayres...	2,400.00
1356	Fah la mer.....	24	8	10 W		
1356	Fah la mer.....	25	8	10 W	Eli Ayres...	1,600.00
1356	Fah la mer.....	26	8	10 W		
1365	Shoom a cher.....	33	6	11 W	Eli Ayres...	1,600.00
1365	Shoom a cher.....	32	6	11 W		
1369	Cle tah.....	11	3	10 W	Eli Ayres...	1,600.00
1369	Cle tah.....	12	3	10 W		

UNDER THE SIXTH ARTICLE OF THE TREATY.

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.	NAME OF PURCHASER.	PRICE PAID.
598	Um mo mi sho lubby....	33	10	7 W.	Eli Ayres.	800.00
600	Shah tim ah.....	16	4	4 E.	Eli Ayres.	800.00
602	Pee lee che.....	14	8	4 W.	Eli Ayres.	800.00
604	Gilbert	16	7	5 W.	Eli Ayres.	800.00
605	Paf can chah.....	7	4	5 W.	Eli Ayres.	800.00
607	Wesley	16	2	10 E.	Eli Ayres.	800.00
608	Ta shie ka.....	16	4	6 E.	Eli Ayres.	800.00
610	Im mah ho yea.....	2	10	8 W.	Eli Ayres.	800.00
611	James Carnes.....	16	11	1 W.	Eli Ayres.	800.00
613	Ish tah pah ka.....	11	10	6 W.	Eli Ayres.	800.00
614	Ah to bo tubby.....	16	2	6 E.	Eli Ayres.	800.00
616	Pis ah ho kah.....	20	25	7 E.	Eli Ayres.	800.00
617	She mah.....	33	24	8 E.	Eli Ayres.	800.00
619	Ah took lah.....	16	14	5 E.	Eli Ayres.	800.00

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.	NAME OF PURCHASER.	PRICE PAID.
622	Can she tah.....	16	7	5 E.	Eli Ayres.	800.00
623	Ah pah ho ta.....	16	5	4 E.	Eli Ayres.	800.00
625	To ho yea.....	16	3	4 E.	Eli Ayres.	800.00
626	Bah no yea.....	16	7	4 E.	Eli Ayres.	800.00
628	Pa ha la cha.....S ½	7	10	6 W.	Eli Ayres.	800.00
629	E ah ho to na.....W ½	8	10	6 W.	Eli Ayres.	800.00
631	Yo ka.....	23	16	3 E.	Eli Ayres.	800.00
634	Phil le mah.....	6	10	8 W.	Eli Ayres.	800.00
635	Pah cah no la..Lots 5 to 8	1	1	5 W.	Eli Ayres.	800.00
637	Cun in tee mah....E ½	16	2	5 W.	Eli Ayres.	800.00
638	Chuck a mah ho kah....	7	4	11 W.	Eli Ayres.	800.00
640	Che she ho ke ty.....	11	7	12 W.	Eli Ayres.	800.00
641	Im mo ho yea.....	10	7	12 W.	Eli Ayres.	800.00
643	Te ah lah ma.....Frac.	22	7	12 W.	Eli Ayres.	800.00
644	Wah tubby.....	9	7	12 W.	Eli Ayres.	800.00
646	Che ho yea.....	21	24	8 E.	Eli Ayres.	800.00
647	Ish te kah cha.....	17	24	7 E.	Eli Ayres.	800.00
649	Ish ta ti yea.....	17	4	11 W.	Eli Ayres.	800.00
650	Oke lah in tah.....	23	4	11 W.	Eli Ayres.	800.00
652	Opah kah to mah.....	35	4	10 W.	Eli Ayres.	800.00
653	Tam by.....	16	6	2 W.	Eli Ayres.	800.00
655	Im lun nah.....	16	9	2 E.	Eli Ayres.	800.00
659	We tubby.....	16	4	7 E.	Eli Ayres.	800.00
660	Shah ah yah cubby.....	20	4	7 E.	Eli Ayres.	800.00
661	Ish ta ka te.....	29	11	6 W.	Eli Ayres.	800.00
662	To wah ka.....	19	11	6 W.	Eli Ayres.	800.00
663	Che ho yea.....	21	10	6 W.	Eli Ayres.	800.00
664	Kam pil lah to na.....	26	4	9 W.	Eli Ayres.	800.00
665	Pan ya hon ah.....	16	3	6 W.	Eli Ayres.	800.00
666	Lucy.....	16	13	3 E.	Eli Ayres.	800.00
667	Po kah.....	20	10	6 W.	Eli Ayres.	800.00
668	E yah hon tubby.....	16	7	1 W.	Eli Ayres.	800.00
669	In tubby.....	3	3	10 E.	Eli Ayres.	800.00
670	Ah muck a ah by.....	16	8	5 E.	Eli Ayres.	800.00
671	Ish te tah yea.....	15	2	9 W.	Eli Ayres.	800.00
672	Po shaw tubby.....	23	4	9 W.	Eli Ayres.	800.00
673	In oh lah.....	16	4	6 W.	Eli Ayres.	800.00
674	Sal.....	16	5	6 W.	Eli Ayres.	800.00
676	Mah field.....	16	4	3 E.	Eli Ayres.	800.00
677	Me kah chi.....	11	9	6 W.	Eli Ayres.	800.00
679	Ah no wah tubby.....	24	3	10 E.	Eli Ayres.	800.00
680	Ho yah ti.....	16	10	7 E.	Eli Ayres.	800.00
681	Pish ah ho key.....	5	22	10 E.	Eli Ayres.	800.00
682	On ah ho chy.....	24	9	5 W.	Eli Ayres.	800.00
683	Ah che la tah.....	33	4	9 W.	Eli Ayres.	800.00
684	E lah fa nah.....	36	4	9 W.	Eli Ayres.	800.00
685	Tun up ah umby.....	31	14	1 E.	Eli Ayres.	800.00
686	Tun mal la cha.....	16	3	3 E.	Eli Ayres.	800.00
687	Ah kah fal lah.....	16	2	3 E.	Eli Ayres.	800.00
688	Pis tim ah ho nah.....	16	14	3 E.	Eli Ayres.	800.00
689	E lah pah ho key.....	32	14	1 E.	Eli Ayres.	800.00
690	Tul lo wah chey.....	23	9	5 W.	Eli Ayres.	800.00
691	Ul lah ho ky.....	16	5	7 E.	Eli Ayres.	800.00

NO. ON ROLL.	NAME OF INDIAN RESERVEE.	SEC.	TP.	RANGE.	NAME OF PURCHASER.	PRICE PAID.
692	Hilth lah la chy.....	30	4	11 W.	Eli Ayres.	800.00
693	Ho chy.....	35	4	9 W.	Eli Ayres.	800.00
694	Cook shah koon nah....	33	14	1 E.	Eli Ayres.	800.00
695	Ho yah ti ye.....	4	22	10 E.	Eli Ayres.	800.00
696	Yo nah.....	16	9	6 W.	Eli Ayres.	800.00
697	Yo key.....	26	4	11 W.	Eli Ayres.	800.00
698	Shal lah.....	16	5	9 W.	Eli Ayres.	800.00
699	E mah by.....	3	22	10 E.	Eli Ayres.	800.00
700	May tubby.....	13	10	6 W.	Eli Ayres.	800.00
702	Phe man tah.....	16	11	7 E.	Eli Ayres.	800.00
704	In chaf fah tubby.....	16	7	3 W.	Eli Ayres.	800.00
705	Chee Wah.....	25	10	6 W.	Eli Ayres.	800.00
706	Oke pah.....	16	13	4 E.	Eli Ayres.	800.00
710	Mah tah cha.....	14	8	10 W.	Eli Ayres.	800.00
711	Ah no hah cha.....	16	4	9 E.	Eli Ayres.	800.00
712	Sammy.....	16	6	1 W.	Eli Ayres.	800.00
713	Ben Allen.....	16	9	1 W.	Eli Ayres.	800.00
714	Peggy Conley.....	16	7	7 E.	Eli Ayres.	800.00
715	Arte Conley.....	16	8	7 E.	Eli Ayres.	800.00
716	Robert Hancock, Jr.....	16	9	7 E.	Eli Ayres.	800.00
717	Nat Graham.....	4	11	6 W.	Eli Ayres.	800.00
719	Aley Hancock.....	14	4	9 W.	Eli Ayres.	800.00
720	O nah lah umby.....	16	10	8 E.	Eli Ayres.	800.00
721	In cho theah.....	17	21	11 E.	Eli Ayres.	800.00
725	Wah ka hi yea.....	16	11	1 E.	Eli Ayres.	800.00
726	Wy O Ka.....	4	21	11 E.	Eli Ayres.	800.00
727	Ah kah nah la.....	6	21	11 E.	Eli Ayres.	800.00
728	Ah bah la tubby.....	5	23	8 E.	Eli Ayres.	800.00
729	Ish may tubby.....	16	8	1 W.	Eli Ayres.	800.00
730	Tish O wah.....	35	11	8 E.	Eli Ayres.	800.00
731	Ish tin ul lah.....	16	8	8 E.	Eli Ayres.	800.00
732	No wah ho nah.....	16	8	1 E.	Eli Ayres.	800.00
733	Ish tim mo nan chy.....	8	4	12 W.	Eli Ayres.	800.00
735	Ho yah na.....	3	21	11 E.	Eli Ayres.	800.00
736	Ah fah man tin ah.....	4	4	11 W.	Eli Ayres.	800.00
737	Shuch o yea.....	6	8	10 W.	Eli Ayres.	800.00
739	Mary McIntosh.....	32	3	4 W.	Eli Ayres.	800.00
745	Ah yin min ta.....	9	21	11 E.	Eli Ayres.	800.00
747	Ho yea.....	1	15	1 E.	Eli Ayres.	800.00
754	O Kah pah.....	9	4	11 W.	Eli Ayres.	800.00
758	I E Ki ubby.....	25	7	12 W.	Eli Ayres.	800.00
763	Sham pa.....	28	6	12 W.	Eli Ayres.	800.00
764	Tus ka ar ker.....	18	7	10 W.	Eli Ayres.	800.00
769	Lop pish.....	23	3	10 W.	Eli Ayres.	800.00
776	Ba o nah tubby.....	23	5	11 W.	Eli Ayres.	800.00

See original deeds and certificates and receipts, Exhibits 19 to 166 inc. to deposition of Simon Wolf; deposition of George E. Harris; Exhibits A and B (original deeds) to Jemison's dep.; Exhibits A and B, original affidavits of Eli Ayres to Harris's dep.; Stat. and Ab. Ev., p. 39; Exhibits A and B to Jones's dep.; Stat. and Ab. Ev., p. 37; see also Stat. and Ab. Ev., pp. 42-47.

VI.

That the United States and its officers ignored and disregarded the title acquired under the grant of the treaty of May 24, 1834, by the said Chickasaw Indian reservees, to the said lands, situated in the State of Mississippi, and also ignored and disregarded the title of Eli Ayres to said lands situated in the State of Mississippi, acquired by him from said Chickasaw Indians by deeds of conveyance, duly executed, signed, sealed, and delivered to said Ayres for a fair consideration, which was paid, and disposed of said lands, by selling about 141 sections or parcels of the same at public sale, and locating the remainder, or about 53 sections or parcels thereof, to other persons than said Chickasaw reservees, as is more particularly shown by the tabulated statement (46) transmitted by the Secretary of the Interior of date Aug. 3, 1905, which is as follows:

List of Chickasaw lands located at Pontotoc, Miss., for certain reservees under articles 5 and 6, treaty of May 24, 1834 (7 Stat., 450); also lands sold by United States, and price paid for same, in townships named.

SEC.	TP.	RANGE.	LOCATED.	SOLD BY U. S.	PRICE PAID.	REMARKS.
33	10	7 W.	1844	....	....
16	4	4 E.	....	1844-6	\$599.57	
14	8	4 W.	1844	....	....
16	7	5 W.	1844	....	....
7	4	5 W.	1844	....	....
16	2	10 E.	....	1844-6	560.36	
16	4	6 E.	....	1847-8	219.54	
2	10	8 W.	....	1840	140.24	
16	11	1 W.	....	1844-8	341.02	
11	10	6 W.	....	1844-8	239.47	
16	2	6 E.	....	1845-7	440.47	
20	25	7 E.	....	1845-6	491.80	
33	24	8 E.	....	1840	460.00	
16	14	5 E.	....	1844-45	719.82	
16	7	5 E.	....	1844-6	239.80	
16	5	4 E.	....	1844-6	636.41	
16	3	4 E.	....	1844-6	719.10	
16	7	4 E.	....	1844-6	678.30	
7	10	6 W.	N. ½	1844	277.61	R. 6 E., in petition.
8	10	6 W.	E. ½	1844	399.56	Petition 7 W.
23	16	3 E.	....	1844	371.98	

SEC.	TP.	RANGE.	LOCATED.	SOLD BY U. S.	PRICE PAID.	REMARKS.
6	10	8 W.	1844	....	....	Petition T. 18.
1	1	5 W.	....	1836	1,579.19	
16	2	5 W.	....	1837-44	876.72	
7	4	11 W.	....	1846	323.74	
11	7	12 W.	....	1846	640.40	
10	7	12 W.	....	1845	641.60	
22	7	12 W.	....	1845	444.38	
9	7	12 W.	....	1845-6	410.13	
21	24	8 W.	....	1844-50	319.88	
17	24	7 W.	1844	....	....
17	4	11 W.	....	1846	319.04	
23	4	11 W.	....	1846	320.32	
35	4	10 W.	....	1846	299.50	
16	6	2 W.	....	1846-48	218.50	
16	9	2 E.	....	1847-50	100.36	
16	4	7 E.	1844	....	....
20	4	7 E.	1844	....	....
29	11	6 W.	1844	....	....
19	11	6 W.	1844	....	....
21	10	6 W.	1844	....	....
26	4	9 W.	1844	....	....
16	3	6 W.	1844	....	....
16	13	3 E.	....	1844	\$680.44	
20	10	6 W.	1844	....	....
16	7	1 W.	1844	....	....
3	3	10 E.	....	1839	479.40	Petition R. 10 W.
16	8	5 E.	....	1851	200.33	Petition R. 5 W.
15	2	9 W.	1844	....	....
23	4	9 W.	1844	....	....
16	5	6 W.	1844	....	....
16	4	6 W.	1844	....	....
16	4	3 E.	....	1844-7	554.94	
11	9	6 W.	1844	....	....
24	3	10 E.	....	1844-47	627.65	
16	10	7 E.	1844	....	....
5	22	10 E.	1844	....	....
24	9	5 W.	1844	....	....
33	4	9 W.	....	1844-51	299.08	
36	4	9 W.	....	1846-48	218.55	
31	14	1 E.	....	1844-45	717.00	
16	3	3 E.	....	1844-47	558.00	
16	2	3 E.	....	1845-50	241.18	
16	4	3 E.	....	1844-46	554.94	
32	14	1 W.	....	....	....	No such land on plat.
23	9	5 W.	....	1847-53	139.65	
16	5	7 E.	....	1844-47	560.22	
30	4	1 W.	1840	....	....
35	4	9 W.	1844	....	....
33	14	1 E.	....	1844-45	739.54	
4	22	10 E.	1844	....	....
16	9	6 W.	....	1846-48	260.78	
26	4	11 W.	....	1846	320.52	
16	5	9 W.	1844	....	....
3	22	10 E.	1844	....	....

SEC.	TP.	RANGE.	LOCATED.	SOLD BY U. S.	PRICE PAID.	REMARKS.
13	10	6 W.	....	1846-48	240.04	
16	11	7 E.	....	1844	758.33	
16	7	3 W.	....	1844-48	319.61	
25	10	3 W.	....	1836-41	642.17	
16	13	4 E.	....	1844-47	520.42	
14	8	10 E.	....	1837-40	600.12	
16	4	9 W.	1844	....	....	Petition R. 9 E.
16	6	1 W.	1844	....	....	Petition R. 1 E.
16	9	1 W.	....	1846-49	220.42	Petition R. 1 E.
16	7	7 E.	....	1844-46	520.16	
16	8	7 E.	....	1844-51	319.36	
16	9	7 E.	....	1844-46	679.83	
4	11	6 W.	....	1844-48	499.25	
14	4	9 W.	....	1844-51	160.12	
16	10	8 E.	....	1846-49	236.30	
17	21	11 E.	1844	....	....
16	11	1 E.	....	1846-47	180.00	
4	21	11 E.	1844	....	....
6	21	11 E.	1844	....	....
5	23	8 E.	1844	....	....
16	8	1 W.	1846	....	....
35	11	8 E.	....	1844-48	241.00	Petition R. 8 W.
16	8	8 E.	....	1845-48	220.13	
16	8	1 E.	....	1847-49	139.79	
8	4	12 W.	1844	....	....
3	21	11 E.	....	1844	146.75	
4	4	11 W.	....	1844	319.54	
6	8	10 W.	....	1846	309.88	
32	3	4 W.	1844	....	....
9	21	11 E.	1844	....	....
1	15	1 E.	....	1845-46	602.86	
9	4	11 W.	....	1846	159.76	
25	7	12 W.	....	1846	79.68	
28	6	12 W.	....	1845	137.35	
18	7	10 W.	....	1846	99.60	
23	3	10 W.	....	1846	80.00	
23	5	11 W.	....	1846	80.23	
5	11	7 E.	....	1844-46	640.41	
6	11	7 E.	....	1844	1,008.00	
7	11	7 E.	....	1844	935.29	
8	23	9 E.	....	1844	279.65	
17	23	9 E.	....	1844-47	440.00	
18	23	9 E.	....	1844-47	399.25	
15	25	6 E.	....	1846-47	236.17	
22	25	6 E.	....	1846-48	138.91	
15	4	9 W.	1844	....	....
22	4	9 W.	1843	....	....
21	25	6 E.	E. 1/2 & SW. 1/4.	1833-48	203.36	80 acres sold at Choc-
27	25	6 E.	....	1846-47	352.02	chuma.
28	25	6 E.	1844	....	....
26	4	10 W.	....	1846	302.15	
27	4	10 W.	....	1846-49	260.49	
2	25	7 E.	....	1833-48	599.54	120 acras sold at Chocchuma.

SEC.	TP.	RANGE.	LOCATED.	SOLD BY U. S.	PRICE PAID.	REMARKS.
3	25	7 E.	....	1834-48	676.51	160 acres sold at
22	10	6 W.	1844	....	....	Chocchuma.
23	10	6 W.	....	1847-49	140.30	
12	23	8 E.	1844	....	....	Petition R. 8 W.
13	23	8 E.	1844	....	....	Petition R. 8 W.
22	23	8 E.	1844	....	....	Petition R. 8 W.
23	23	8 E.	....	1844-46	495.48	Petition R. 8 W.
2	24	7 E.	1844	....	....
11	24	7 E.	1844	....	....
20	11	8 E.	....	1844	795.24	
29	11	8 E.	....	1844-53	501.41	
16	22	10 E.	1844	....	....
17	22	10 E.	....	1846-47	240.84	
11	22	9 E.	....	1846-47	180.35	
14	22	9 E.	....	1844-47	120.77	
2	23	8 E.	....	1846-48	240.16	
35	24	8 E.	....	1844-50	299.25	
7	24	8 E.	....	1844-48	420.21	
8	24	8 E.	....	1844-48	726.07	
5	21	12 E.	....	....	....	No such land in tp.
8	21	12 E.	....	....	....	No such land in tp.
7	16	3 E.	....	1847	158.96	
8	16	3 E.	....	1846	337.51	
5	4	11 W.	....	1846	319.12	
6	4	11 W.	....	1846	321.34	
3	10	6 W.	....	1844-46	559.66	
9	10	6 W.	1844	....	....
10	10	6 W.	....	1845-47	358.79	
2	25	6 E.	....	1834-48	729.01	120 acres sold at Chocchuma.
3	25	6 E.	....	1834-48	675.58	80 acres sold at Chocchuma.
25	4	5 W.	1844	....	....
36	4	5 W.	1844	....	....
6	4	10 W.	....	1846	160.72	
7	4	10 W.	....	1845-46	241.59	
19	4	10 W.	....	1846	161.57	
30	4	10 W.	....	1845	160.92	
28	8	10 W.	....	1846	159.99	
29	8	10 W.	....	1846	147.79	
1	4	10 W.	....	1846	79.88	
11	4	10 W.	....	1846	160.32	
12	4	10 W.	....	1846	159.83	
26	3	10 W.	....	1845	80.01	
27	3	10 W.	....	1845	79.90	
2	5	11 W.	....	1845	128.28	
3	5	11 W.	....	1845	128.12	
1	5	11 W.	....	1845	134.53	
12	5	11 W.	....	1845	199.93	
20	6	9 W.	....	1845-46	119.68	
29	6	9 W.	....	1846	80.40	
13	7	10 W.	....	1846	80.01	
24	7	10 W.	....	1846	79.96	
31	6	12 W.	....	1846	82.50	
32	6	12 W.	....	1845-46	98.23	

SEC.	TP.	RANGE.	LOCATED.	SOLD BY U. S.	PRICE PAID.	REMARKS.
33	6	12 W.	....	1845	138.23	
20	8	10 W.	....	1846	159.75	
21	8	10 W.	....	1846	160.18	
22	8	10 W.	....	1846	160.29	
24	8	10 W.	....	1846	160.38	
25	8	10 W.	....	1846	160.38	
26	8	10 W.	....	1846	159.54	
35	8	10 W.	....	1843	115.62	
32	6	10 W.	....	1845	79.93	
33	6	10 W.	....	1844-45	97.69	
11	3	10 W.	....	1845	79.92	
12	3	10 W.	....	1845-48	79.96	

Total..... \$48,061.56

Area of lands so located for reservees..... 33,163 acres.

See Stat. and Ab. Ev., pp. 49 to 53; Exhibit No. 46 to the report of the Secretary of the Interior of August 3, 1905.

VII.

That the remainder of the said lands reserved and located to the Chickasaw Indian reservees and sold and conveyed by them to Eli Ayres as aforesaid, namely, 53 sections and parcels, was appropriated and located to other persons by the United States Government, in the years 1840, 1843, 1844 and 1846, as is shown by the tabulated statement of the Interior Department, set out in the preceding request numbered VI. That said Eli Ayres paid to his grantors, the said Chickasaw Indian reservees, the sum of \$800 per section, or \$1.25 per acre for the said land, and was the owner thereof, and held the title thereto, at the time the same was so located by the United States Government to other persons, and should be reimbursed by the United States in the sum he actually paid to the Chickasaw Indian reservees therefor, to-wit, \$42,400, for the same reasons that the money was refunded to the legal representatives of Wray (11 Stat. L., p. 514) and to Hardin (17 Stat. L., p. 705).

See Stat. and Ab. Ev., pp. 49 to 53; Exhibit No. 46 to report of the Secretary of the Interior of August 3, 1905.

VIII.

That the sum of \$48,061.56, the proceeds of the public sales of a portion of the said lands reserved and located for the said Chickasaw Indian reservees, as is shown by the tabulated statements in the preceding requests numbered III and IV, and being the same lands sold and conveyed by deeds by said Chickasaw Indian reservees to Eli Ayres, as is shown by the tabulated statement in the preceding request numbered VI, were disposed of and invested by the United States, as follows:

The sum of \$48,061.56 referred to represents proceeds of sales of reserved Chickasaw lands received and covered into the Treasury under treaty stipulations and carried to the credit of the appropriation "Carrying into effect Treaty with Chickasaws," under the provisions of the Act of April 20, 1836 (5 Stat., p. 10), which appropriation was also credited with proceeds of sales of other Chickasaw lands not reserved lands.

As shown by enclosed copy of a report made by the Acting Commissioner of the General Land Office on November 6, 1905, to the Secretary of the Interior, and by him transmitted to this Department in response to its inquiry of October 27, 1905, the dates of sales of the reserved Chickasaw lands scheduled in the report of the Commissioner of the General Land Office of July 25, 1905, were between December 5, 1836, and May 20, 1853, and that the approximate average date of such sales is estimated as May 1, 1846.

During the period December 5, 1836, to May 20, 1853, there was invested by the United States for the Chickasaw Indians from the proceeds of sales of all Chickasaw lands, unreserved and reserved, in the account for "Carrying into effect Treaty with Chickasaws," the sum of \$1,901,263.33, bearing interest at not less than five per cent. per annum, the \$48,061.56 proceeds of the sale of the reserved lands referred to being a part of the sum so invested.

Computing interest at five per cent. per annum on \$48,061.56 from the approximate average date of sales of said reserved lands, that is, from May 1, 1846, down to Novem-

ber 1, 1905, the interest would amount to \$142,983.14, which, with the principal of \$48,061.56, would make a total of \$191,044.70.

See Stat. and Ab. Ev., pp. 54, 55; Report Secretary Treasury of November 14, 1905.

IX.

That twenty-one of the original deeds of conveyance from the said Chickasaw Indian reservees and grantors to Eli Ayres, have attached to each of them the original certificate of two Commissioners as required by article four of the Treaty of May 24, 1834, as to the capacity of the Chickasaw Indian reservee and grantor named therein, to manage and take care of his or her own affairs; and there is also attached to each of said deeds an original certificate of A. M. M. Upshaw, Chickasaw Agent, as to the truth, to the best of his knowledge and information, of the contents of the certificate of the said Commissioners as to the capacity of the said Chickasaw Indian reservee and grantor, named in said deeds, to manage and take care of his or her own affairs, and that the consideration named in each of the said deeds of conveyance, is, in his opinion, a fair consideration, and that it has been paid, as required by article four of said Treaty; the execution of said original deeds and certificates are all duly witnessed.

See original deeds, Exhibits 125 to 130, and Exhibits 153 to 166, to deposition of Simon Wolf; identified by George E. Harris in his deposition; also original deed, Exhibit A, to Jemison's deposition; also affidavit of Dollarhide, Exhibits A and B, to James K. Jones's deposition (also transmitted by Congress as Nos. 30 and 31); also affidavit of Eli Ayres, Exhibit B, to deposition of George E. Harris (transmitted by Congress as No. 27); also copy of affidavit of Eli Ayres, transmitted by Congress as No. 28; see Stat. and Ab. Ev., pp. 28-31.

The remaining 129 original deeds of conveyance from said Chickasaw Indian reservees and grantors to Eli Ayres, have attached to each of them the original certificate, duly witnessed, of two Commissioners as required by article 4, of the Treaty of May 24, 1834, as to the capacity of the Chickasaw Indian reservee and grantor, named therein, to manage and take care of his or her own affairs; there is also attached to each of said deeds a receipt, duly witnessed, showing the amount of consideration paid for the respective sections and parcels of land by Ayres; but there is no certificate of the Indian Agent attached to these deeds as required by the treaty. The failure of Ayres to procure the certificate of the Indian Agent to the 129 deeds was caused by the suggestion to Acting Superintendent Armstrong of one or more Chickasaw chiefs that some of the Indians for whom lands had been reserved and located were not Chickasaws, which suggestion was reported by Superintendent Armstrong to the Commissioner of Indian Affairs, who thereupon recommended to the Secretary of War that the list of unconfirmed locations be sent to the committee provided for in the fourth article of the Treaty of May 4, 1834, with the Chickasaw Tribe, for their revision; the Secretary of War on May 4, 1841, approved the recommendation of the Commissioner of Indian Affairs and issued an order in accordance therewith, by the express terms of which no locations could be approved in advance, or until subsequent to the revision or correction of the list by the committee, assisted by Major Armstrong. This wrongful course and procedure by the War Department, which appears to have been adopted and pursued without any authority therefor, suspended all further action by the United States and its officers concerning the rights of the Indian reservees and grantors to Eli Ayres in regard to the reservations and locations allotted to them and sold by them to

Eli Ayres; and also suspended all further action of the United States and its officers as to the rights and title of said Eli Ayres to the locations of land purchased by him from the said Chickasaw Indian reservees and grantors, and prevented him from obtaining from the Indian Agent the certificate to each of the 129 deeds as to the capacity of the respective Indian reservees and grantors, and as to the fairness of the consideration for said land, and as to the actual payment of such consideration, as required by the treaty.

The committee provided for in the fourth article of the treaty, to whom the list of unconfirmed locations was sent by the order of the Secretary of War of May 4, 1841, for revision with the assistance of Major Armstrong, never met and considered, or passed upon, or revised, the said list of unconfirmed locations in compliance with said order.

It appears that a body consisting of 25 Chickasaw Indians, not the committee named in the fourth article of the treaty of May 24, 1834, and designated specifically in the order of the Secretary of War of May 4, 1841, met with Major Armstrong at Boggy Depot, Indian Territory, on the 25th day of October, 1842, and held what is designated in their own report as a *council*; Major Armstrong, in his report of October 28, 1842, says he attended a *council* of the Chickasaws; the *council* lasted one day, and passed upon the rights of 524 Indians, affecting their reservations and locations of land which had been previously fixed and settled by the Commissioners named in the treaty, and had been duly located by the Indian Agent and Register of the Land Office at Pontotoc, Miss., and sold by the reservees to Eli Ayres; of the 524 reservees, 520 were rejected summarily by this *council*, 150 of whom were grantors to Eli Ayres; there is nothing to show that notice was given even to the Chickasaw Indians of the meeting of this council, ex-

cepting the statement in the report that notice had been given that a *council* would be held; Eli Ayres had no notice of the council meeting and knew nothing about the meeting or proceedings until afterwards. (See affidavit Eli Ayres, transmitted by Congress as No. 28.)

The report of the proceedings of the council of Boggy Depot reached the Commissioner of Indian Affairs on March 1, 1843, and was approved on March 3, of the same month and year, and all of the 520 reservations and locations rejected by said council, in which were included all of the reservations and locations purchased by Eli Ayres from the said Chickasaw Indian reservees, were forever treated as absolutely void. By reason of the wrongful course and procedure of the United States the claimant's decedent and those acting for him, failed to obtain the approval of the President to any of his said deeds, as required by the treaty, although due diligence was exercised by him and those representing him to obtain the approval of said deeds by the President.

See Stat. and Ab. Ev., pp. 30, 34-36; see original deeds, Exhibits 19 to 124 and 131 to 152, to Simon Wolf's Dep.; identified by Harris in his deposition; original deeds, Exhibits 'A' and 'B' to Jemison's Dep.; affidavit of Dollarhide, Exhibits 'A' and 'B' to Jones' Dep., printed Stat. and Ab. Ev., p. 37; affidavit Eli Ayres, Exhibit 'B' to Harris' Dep., printed in Stat. and Ab. Ev., p. 39; copy affidavit Eli Ayres, transmitted by Congress as No. 28.

X.

As to the question of vigilance in the prosecution of his claim on the part of claimant there is abundant evidence. The treaty was made in 1834; the reservees were enrolled and located in 1838; Ayres purchased in May and June,

1839; the Boggy Depot council was held in 1842; the refusal of the Secretary to submit the deeds to the President for his approval in 1843; the decisions in *Wray vs. Doe* was rendered in 1848, having been decided in both the Circuit and Supreme Courts of Mississippi; a further application for approval of deeds was made upon the faith of the Court decisions in 1849, reported against in 1850; another case (*Hardin vs. Doe*), was apparently immediately instituted and decided by the Supreme Court of Mississippi in 1854; Wray's money was refunded to him by Act of Congress in 1857; the decision of the Supreme Court of the United States (*Best vs. Polk*), was rendered in 1873; another application to the President for approval of the deeds made in 1875, and held under advisement and rejected in 1878; Ayres petitioned Congress for relief in 1878; renewed his application to the Secretary of the Interior in 1881; filed bill in Congress in 1882. This latter measure seems to have been referred to the Interior Department for consideration and report. The committee has had before it a very exhaustive report by Commissioner Hiram Price, covering the whole history of the case, finding the claimant entitled to relief and recommending the passage of the bill. Mr. Price's report was transmitted to Congress by Secretary Teller, who concurred in the findings and recommendation of the Commissioner. From that time until the present bills have been pending in every Congress providing for relief, until relief was finally granted by the passage of the Act, approved February 24, 1905 (33 Stat. L., Part I, p. 808), which refers the claim to this Court.

See Claimant's Stat. and Abs. Ev., pp. 55-59.

XI.

That Eli Ayres in his lifetime, nor his heirs or legal representatives, nor any person or persons in his or their

behalf, have received from the Chickasaw Indian reservees and grantors to said Eli Ayres, or from the United States, any reimbursement of the purchase money, or any part of the same, paid by said Eli Ayres to said Indians for the said lands and the deeds therefor.

XII.

That the net proceeds of the sales by the United States of the lands reserved and located for the certain Chickasaw Indians who had, previously to said sales by the United States, sold and conveyed the said lands to Eli Ayres, amounted to \$48,061.56; that the average date of the sales of these lands is estimated as May 1, 1846; that the said sum of \$48,061.56 represents the proceeds of sales of reserved Chickasaw lands which had been sold and conveyed to Eli Ayres, and which was received and covered into the Treasury under treaty stipulations and carried to the credit of the appropriation "Carrying into effect Treaty with Chickasaws," under the provisions of the Act of April 20, 1836 (5 Stat., p. 10), which appropriation was also credited with proceeds of sales of other Chickasaw lands not reserved lands; that during the period from December 5, 1836, to May 20, 1853, there was invested by the United States for the Chickasaw Indians from the proceeds of sales of all Chickasaw lands, unreserved and reserved, in the account for "Carrying into effect Treaty with Chickasaws," the sum of \$1,901,263.33, bearing interest at not less than five per cent. per annum, the \$48,061.56 proceeds of the sale of the reserved lands referred to being a part of the sum so invested.

Computing interest at five per cent. per annum on \$48,061.56 from the approximate average date of sales of said reserved lands which had been sold and conveyed to Eli Ayres by the Indian reservees, that is, from May 1, 1846,

down to November 1, 1905, the interest would amount to \$142,983.14, which, with the principal of \$48,061.56, would make a total of \$191,044.70, being the sum in which the claimant should be reimbursed from the account for "Carrying into effect Treaty with Chickasaws," under the Act of April 20, 1836.

See Stat. and Ab. Ev., pp. 54-55; Report Secretary Treasury of November 14, 1905.

XIII.

That the claimant is entitled to reimbursement or payment by the United States in the sum of \$42,400, for the 53 sections or parcels of land situated in the State of Mississippi, to which Eli Ayres held deeds and title from the Chickasaw Indian reservees and grantors, and which was appropriated and located by the United States to other persons while the title was so vested in said Ayres, and for which said Ayres had paid the said sum of \$42,400.

Stat. and Ab. Ev., pp. 18-22, 49-53.

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