

PAYMENT TO CHEROKEE FREEDMEN.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

IN RESPONSE TO SENATE RESOLUTION OF MAY 25, 1897, COPIES OF ALL PAPERS IN RELATION TO THE PAYMENT AND OF THE CORRESPONDENCE IN CONNECTION THEREWITH, SHOWING THE REASON WHY THE PAYMENT TO THE CHEROKEE FREEDMEN WAS SUSPENDED.

JUNE 4, 1897.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, June 3, 1897.

SIR: I have the honor to acknowledge the receipt of the following resolution of the Senate, dated 25th ultimo:

That the Secretary of the Interior is hereby directed to inform the Senate the reason why the payment to the Cherokee freedmen was stopped, and also to send to the Senate a copy of all papers in relation to said payment.

In response thereto I transmit copies of all papers in relation to the payment and of the correspondence in connection therewith, showing the reason why the payment to the Cherokee freedmen was suspended, and the action taken by the Department to complete the same.

United States Indian Agent Wisdom, Union Agency, Ind. T., who has been designated to complete the payment, has filed proper bond, and moneys will be placed to his credit this day, whereupon payment will be immediately resumed at the town of Fort Gibson, Cherokee Nation.

Very respectfully,

C. N. BLISS, *Secretary.*

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., February 10, 1897.

JAMES G. DICKSON,
Special Indian Agent, Present.

SIR: Steps have been taken to place to your official credit, with the assistant treasurer at St. Louis, Mo., the sum of \$200,000, first of five installments to be sent you for the purpose of making payment of

\$858,981 to the Cherokee freedmen, under the provisions of the act of Congress approved March 3, 1893, (27 Stats. L., 612-641) and a decree of the Court of Claims in the case of "Mose Whitmire, trustee for the freedmen of the Cherokee Nation *v.* the Cherokee Nation and the United States," final decree in which case was entered by the court of February 3, 1896.

Under date of April 23, 1896, instructions were given a commission, consisting of Messrs. William Clifton, Robert H. Kern, and William B. Thompson, for their guidance in preparing a census of the Cherokee freedmen to enable this office to carry out the provisions of the act above referred to, and from the census roll prepared by them in accordance with said instructions a roll has been prepared, complete, to enable you to make this payment, and the original, duplicate, and triplicate of this roll, together with the census roll prepared by the said commission, are this day sent you by Adams Express for use in making this payment, as questions may arise during said payment the settlement of which could only be accomplished by reference to said census roll.

An index of the roll has been prepared and will accompany the roll.

After payment, the original and duplicate rolls to be returned to this office with your accounts, which you will please not confound with your regular quarterly accounts, but make it a special account. The triplicate roll to be retained by yourself.

You will make no change in the original roll as it now stands.

The census roll and the index to the pay roll you will please take special care of and return to this office, in the same manner that they were sent to you, after the payment has been completed.

The names are arranged on the roll, as far as possible, in family groups.

The father and the head of the family is to be allowed to receive and receipt for his own share and the shares of his wife and minor children, except as hereinafter provided.

If, through any cause, such as sickness, very old age, or incompetency, the husband and father is unable to present himself to receive and receipt for the family money, the wife may be allowed to receive the money for him and for their minor children, and to receipt for all.

If the husband is a notoriously unfit person to handle the money of his wife and children, either on account of drunkenness, a taste for gambling, or any other disqualifying vice, or if he is noted for not providing for his family, but has previously neglected it and now comes forward to take possession of this money, you will pay him his own personal share only and pay the mother her own share and the shares of her minor children.

If a husband and wife are separate, pay each one his or her own share and pay to the parent caring for and supporting any of the minor children the share of said children.

If a freedman has more than one wife, you will pay to him his own share and the share of the wife with whom he is living and her minor children, the shares of the other wife or wives and their minor children will be paid to said wife or wives; if, however, all are living together, you will recognize him as the husband of the first wife only, and allow the other wife or wives, to draw their shares and the shares of their minor children.

Letters of guardianship to be issued by the judge of the district court of the district wherein the minor resides will be required in cases where both parents are dead, in cases where the head of the family claims the

shares due the children of his wife by a former husband, and in all other cases where the persons entitled are incompetent to receive and receipt for their own shares.

In all cases of minors or other incompetents not having regularly appointed guardians you will deposit all moneys due such to the credit of the United States, to be held for them until such time as such guardians may be appointed, or, in the case of minors, until they attain their majority, making note in all such cases upon the roll.

Your attention is invited to inclosed circular relative to payments on powers of attorney.

All payments are to be made by check payable to the order of the freedmen entitled, which must be placed directly in their hands.

You are not allowed to make arrangements to favor, even in the slightest degree, any trader, merchant, or other creditor, and neither they, their representatives, nor any creditor of any description can be allowed in the immediate vicinity of the building in which the payment is to be made while the payment is in progress.

In making this payment you are authorized to go to Hayden, Ind. T., and proceed at once upon receipt of notification of the funds being placed to your credit to make payment.

You will be allowed to rent a room for office, for so long as you may actually require it, at as low a rate as you can obtain it.

You will be allowed to employ two clerks and an interpreter, at not to exceed \$3 per day each, while actually employed, exclusive of Sundays, at such time or times as may be necessary, and their traveling expenses will be allowed for which you will make proper vouchers. Their services should be reported as irregular employees on the usual blank.

You will please observe that in many cases the age and sex of the freedmen have been omitted; these must be supplied by you before making payment. The age and sex is especially essential to the end that you may be enabled to determine their right to receive and receipt.

I inclose you herewith a memorandum of probable duplicates on the Cherokee freedmen roll, also a list of numbers, the persons whose names appear opposite on the roll are reported on the "Wallace roll" as dead.

You must carefully avoid duplicate payments and as well payment to those representing persons who died prior to May 4, 1894, as shown by the lists referred to above.

You are directed to use any money you may have in hand denominated "Contingencies, Indian Department, 1897," to defray the expense of making this payment, and if you have not enough, submit an estimate at the proper time for an amount sufficient to enable you to meet the above requirements.

In case of claimants living at a distance from Hayden, it will be well for you to deposit all such shares to the credit of the United States, making due note on the said rolls and notify said claimants of your action and direct them to make application for payment through this office.

Should it be necessary for you to go to any point other than Hayden to enable you to complete this payment, you will wire this office, when steps will be taken with a view of granting you the required authority.

You will be careful to make good and clear notes on the pay roll, explaining any matter that is unusual, such as:

Reason for wife signing in place of husband for family shares.

Reason for paying the husband his share and the wife her own share and those of her children.

Reason of retaining the share of any incompetent person or minor, or any other reason why you should not pay.

Number of certificate of guardianship.

The first installment will be sent you this day, and as soon as you shall exhaust this sum you will notify this office, by wire, when another installment of \$200,000 will be sent you, until the aggregate sum of \$858,981 is sent you.

Upon completion of payment render account at once.

Respectfully,

D. M. BROWNING, *Commissioner.*

Approved:

DAVID R. FRANCIS,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, February 9, 1897.

SIR: I have the honor to transmit herewith copy of a communication of 9th instant, from the Commissioner of Indian Affairs, and in accordance with the recommendation therein contained, request that the necessary orders be issued for the detailing of a troop of cavalry, under a discreet officer, to be present at the payment to be made to the Cherokee freedmen, by Special United States Indian Agent James G. Dickson, to preserve order and protect the disbursing officer in making said payment.

The Commissioner states that the payment will probably cover a period of thirty days or more, and will be commenced at Hayden, Ind. T., on or about February 15, 1897.

Very respectfully,

D. R. FRANCIS, *Secretary.*

The SECRETARY OF WAR.

[Special.]

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 9, 1897.

SIR: I have the honor to recommend that the honorable Secretary of War be requested to issue the necessary orders for the detailing of a troop of cavalry, under a discreet officer, to be present at the payment about to be made to the Cherokee freedmen by Special United States Indian Agent James G. Dickson, to preserve order and protect the disbursing officer in making said payment.

The payment will probably cover a period of thirty days or more, and will be commenced at Hayden, Cherokee Nation, Ind. T., on or about February 15, 1897.

Very respectfully,

D. M. BROWNING, *Commissioner.*

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, March 13, 1897.

SIR: In accordance with the request contained in the accompanying copy of telegram, dated 12th instant, from United States Indian Inspector J. George Wright, who has been instructed to be present at the payment to the Cherokee freedmen, being made by Special Agent

Dickson, I have the honor to request that Captain Galbraith be instructed by telegram to accompany Special Agent Dickson and Inspector Wright to-day to Fort Gibson, to select pay camp and place for troops, the object being to change the place of payment from Hayden to Fort Gibson.

Very respectfully,

C. N. BLISS, *Secretary.*

The SECRETARY OF WAR.

HAYDEN, VIA NOWATA, IND. T., *March 12, 1897.*

SECRETARY OF INTERIOR,
Washington, D. C. :

Please request War Department to authorize Captain Galbraith by wire Saturday to accompany Dickson and myself to Fort Gibson to select pay camp and place for troops. Will return and complete payment here before people gather for payment; this desirable to avoid complications later. Identification of claimants proceeding to-day. Weather fine.

WRIGHT, *Inspector.*

DEPARTMENT OF THE INTERIOR,
Washington, March 30, 1897.

SIR: I have the honor to transmit herewith copy of a communication of 29th instant from the Commissioner of Indian Affairs, stating that Special Agent Dickson, now engaged in making payment to the Cherokee freedmen, has been served with writ of mandamus from Judge Springer, directing him to accept power of attorney from Cherokee freedmen to certain creditors.

Agent Dickson asks if such payment will subject him to suspension in Treasury, or whether refusal thereof will bring him into contempt of court.

I also transmit copy of telegram from United States Indian Inspector Wright, stating that the mandamus directs Dickson to accept power of attorney in favor of F. B. Severs, merchant at Muscogee, for money due about 950 beneficiaries, aggregating \$170,000, and asking whether mandamus shall be complied with.

It is shown by the correspondence that the Commissioner has instructed Agent Dickson to obey all orders of the Federal court and advised him that the Department of Justice has been requested to have the United States attorney appear in his behalf in this case.

The Commissioner holds that if the courts in the Indian Territory compel the disbursing officer of his office to pay on powers of attorney to creditors of these freedmen they would lay his accounts liable to disallowance in the Treasury and his bond to forfeiture, and that such payment would be an evasion, if not absolute violation, of section 3477, Revised Statutes. He therefore recommends that the United States attorney for the northern district of the Indian Territory be instructed to appear in behalf of Agent Dickson and take such action before the court as will result in the dismissal or revocation of the writ of mandamus pending against him.

Concurring in the recommendation of the Commissioner, I have the honor to request that the proper United States attorney be instructed by telegraph to appear in behalf of Agent Dickson in the premises.

Very respectfully,

C. N. BLISS, *Secretary.*

The ATTORNEY-GENERAL.

DEPARTMENT OF THE INTERIOR,
Washington, March 29, 1897.

SIR: I am in receipt of a telegram dated at Hayden, Indian Territory, March 27, 1897, from United States Special Indian Agent James G. Dickson, who is now engaged in making payment to the Cherokee freedmen, as follows:

"Have been served with writ of mandamus from Federal Judge Springer, directing me to accept power of attorney from Cherokee freedmen to certain creditors. Will such payment subject me to suspension in Treasury, or refusal thereof bring me into contempt of court? Advise me fully?"

I have telegraphed to-day to Agent Dickson, in response to his question, as follows:

"The Department of Justice has been requested to have United States attorney appear in your behalf in the mandamus case. Confer with him. In the meantime you should obey all orders of the Federal court."

Although the money being paid out by Agent Dickson is a part of the money agreed by the United States to be paid to the Cherokee Nation on account of the cession of the Cherokee Outlet, it remains Government money in his hands until actually paid, just as though it had never been drawn from the Treasury of the United States. See *Buchanan v. Alexander* (4 Howard, 20), in which the Supreme Court said:

"The rule is general that so long as money remains in the hands of a disbursing officer it is as much the money of the United States as if it had not been drawn from the Treasury." And this is true, although the money might be due and payable from the disbursing officer to another party. If the courts in the Indian Territory compel the disbursing officer of this office to pay on powers of attorney to creditors of these freedmen, they would lay his accounts liable to disallowance in the Treasury and his bond to forfeiture.

Section 3477 of the Revised Statutes declares null and void all assignments, powers of attorneys, orders, or other authorities for receiving payment of any claims upon the United States unless they are freely made and executed in the presence of at least two attesting witnesses after the allowance of the claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. In this case it would be the issuance of the disbursing officer's check on the Treasury of the United States for the sum.

If he be compelled to pay this money on powers of attorney to creditors, coupled as they must be with an interest, it would be at least an evasion, if not absolute violation, of section 3477 of the Revised Statutes.

This Department will see that Mr. Dickson is in rather a delicate position, having on one hand the almost certain disallowance of his accounts if he does pay on these powers of attorney, and on the other commitment for contempt of court if he does not pay.

I have the honor, therefore, to recommend that the Attorney-General be requested to instruct the United States attorney for the northern district of the Indian Territory to appear in behalf of Agent Dickson in the premises and take such action before the court as will result in the dismissal or revocation of the writs of mandamus pending against him.

In view of the urgency of the case, and, as has been set forth above, I have the honor to suggest that the instructions to the district attorney should be by wire.

A copy of the original instructions on which Agent Dickson is making this payment, dated February 10, 1897, is herewith inclosed for the information of the Department.

Very respectfully, your obedient servant,

D. M. BROWNING, *Commissioner*.

The SECRETARY OF THE INTERIOR.

NOWATA, IND. T., March 27.

SECRETARY OF INTERIOR,
Washington, D. C.:

Federal Judge Springer issues mandamus directing Dickson to accept power of attorney favor of F. B. Severs, merchant at Muscogee, for money due about 950 beneficiaries, aggregating \$170,000. If complied with and pursued at Fort Gibson others will do same. It will also cause much feeling and criticism. All collectors to present time have camped among beneficiaries, been excluded from vicinity of

pay house, and not accorded favors. Shall mandamus be complied with by Dickson? Please answer via Chelsea.

WRIGHT, *Inspector.*

DEPARTMENT OF THE INTERIOR,
Washington, April 1, 1897.

SIR: Referring to Department telegram of 31st ultimo, directing you to proceed forthwith to Fort Gibson, Ind. T., and await instructions, I have to direct that you be present at the payment to be made by Special Agent James G. Dickson to the Cherokee freedmen, and give him such assistance as may be necessary. You will report every few days the progress of the payment and keep the Department fully advised of any complications that may arise.

Very respectfully,

C. N. BLISS, *Secretary.*

JAMES McLAUGHLIN, Esq.,
United States Indian Inspector, Fort Gibson, Ind. T.

DEPARTMENT OF JUSTICE,
Washington, D. C., April 7, 1897.

SIR: I have the honor to inclose, for your information and any action you may think proper to take, a copy of a letter dated 1st instant, from Hon. William M. Springer, judge of the United States court for the northern district of the Indian Territory, together with its inclosures, in relation to the investigation of certain alleged irregularities concerning the payment of Cherokee freedmen.

Very respectfully,

JOSEPH McKENNA,
Attorney-General.

The SECRETARY OF THE INTERIOR.

VINITA, IND. T., *April 1, 1897.*

SIR: The United States attorney for the northern district of the Indian Territory having informed me of the desire of the Department to have investigated certain irregularities in reference to the payment of Cherokee freedmen in the Indian Territory, I caused a special grand jury to be empaneled, and this jury has been in session at Vinita about ten days. I send you herewith a copy of my charge to the grand jury. The grand jury found no indictments, but submitted a report to-day, and were then discharged. I send you herewith a certified copy of that report. I respectfully request that you call the attention of the President to that part of the report in reference to the Cherokee freedmen rolls, upon which payments are now being made to Cherokee freedmen. The grand jury report that the rolls have not been correctly made; that there are certain Cherokee freedmen left off the rolls who are entitled to be on them, and that others have been placed thereon who are not entitled to citizenship in the Cherokee Nation. The grand jury recommends an investigation of said rolls to be made by the proper authorities at Washington.

Outside of the report of the grand jury, I have been informed by many persons that the Cherokee freedmen rolls are unreliable and unjust, both to the freedmen and to the Cherokee Nation. A thorough investigation should be had of these rolls before any allotments of lands are made. The Dawes Commission, now in the Indian Territory, could be authorized to make this investigation, and a provision to this

effect could be inserted upon the Indian appropriation bill now pending in the Senate.

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

WM. M. SPRINGER,
Judge United States Court.

Hon. JOSEPH MCKENNA,
Attorney-General, Washington, D. C.

Hon. WM. M. SPRINGER,
Judge United States Court:

We, the grand jurors called in special session by your honor, at Vinita, in March, 1897, beg leave to submit the following report:

We have entered upon the investigation of the alleged misconduct of certain officers of the United States in connection with certain payments of money now being made, and which have been paid to Indian citizens of the Cherokee Nation. Our investigations have not been confined to the payment of these moneys alone. We have endeavored to get the facts in alleged crookedness in the making of the freedman rolls. We have examined many witnesses, but in order to properly pass upon the matters before us, there are other witnesses and documents of importance which should have been examined, but which, on account of lack of time, we have been unable to secure. We would respectfully recommend that the investigation began by us be carried on to its fullest extent by the next grand jury, which meets at this place in October, 1897, and that all proper steps be taken to secure the evidence necessary to enable such grand jury to make full investigation.

We also further wish to say, from evidence brought before us, we are led to believe that the Cherokee freedman rolls are not correctly made. We find that there are certain Cherokee freedmen left off of this roll who should be on same. And we believe there are negroes on the rolls whose names should not appear there. We respectfully ask that an investigation of said rolls be made by the proper authorities at Washington, D. C., and that your honor communicate with such authorities to this end.

We also wish to thank the district attorney, C. L. Jackson, and his able assistant, J. M. Givens, for their assistance in our investigation.

Respectfully submitted.

T. M. BUFFINGTON, *Foreman.*
R. I. BLAKENEY, *Clerk.*

INDIAN TERRITORY, *Northern District, ss.:*

I, James A. Winston, clerk of the United States court within and for the northern district and Territory aforesaid, do hereby certify the above and foregoing to be a true and correct copy of the report of the special grand jury filed in open court and entered of record on the 1st day of April, 1897, as appears from the record now on file in my office.

JAMES A. WINSTON, *Clerk,*
By J. C. ANDERSON, *Deputy Clerk.*

DEPARTMENT OF THE INTERIOR,
Washington, April 9, 1897.

SIR: I have the honor to acknowledge the receipt of your communication of 7th instant, transmitting copy of a letter, together with its inclosure, from Hon. William M. Springer, judge of the United States court for the northern district of Indian Territory, in regard to the recent investigation of certain alleged irregularities in connection with the payments to Cherokee freedmen, and to respectfully inform you that the matter will receive early attention.

Very respectfully,

C. N. BLISS, *Secretary.*

The ATTORNEY-GENERAL.

DEPARTMENT OF THE INTERIOR,
Washington, April 12, 1897.

SIR: I have the honor to acknowledge receipt of your communication of 7th instant, and accompanying letter from W. A. Adams, of Hayden, Ind. T., relative to certain alleged irregularities in connection with payments to Cherokee freedmen.

Mr. Adams states that certain parties, from mercenary motives, are securing powers of attorney to collect the per capita now being made, thereby ruining many creditors who, acting in good faith, have furnished the freedmen with provisions, stock, and farming implements.

In response you are advised that, under date of 27th ultimo, Special Agent Dickson, by whom said payment is being made, reported to the Commissioner of Indian Affairs that he had been served with writ of mandamus from Judge Springer, directing him to accept powers of attorney from Cherokee freedmen to certain creditors, and asked to be informed whether such payment would subject him to suspension in Treasury or refusal thereby bring him into contempt of court.

The Commissioner of Indian Affairs, in submitting the agent's report, held that if the courts in the Indian Territory compel the disbursing officer to pay on powers of attorney to creditors of these freedmen they would lay his accounts liable to disallowance in the Treasury and his bond to forfeiture, and that such payment would be an evasion, if not absolute violation, of section 3477, Revised Statutes, and thereupon the Department, on the 30th ultimo, requested the honorable the Attorney-General to instruct the proper United States attorney to appear in behalf of Agent Dickson and take such action before the court as will result in the dismissal or revocation of the writs of mandamus pending against him.

Under date of 31st ultimo the Attorney-General replied that instructions had been given the United States attorney to defend Special Agent Dickson.

Nothing further has been received in regard to the matter.

Mr. Adams's letter is herewith returned.

Very respectfully,

C. N. BLISS, *Secretary.*

Hon. CHARLES CURTIS,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
Washington, April 20, 1897.

SIR: In connection with Department letter of 30th ultimo, wherein request was made that the proper United States district attorney be instructed to appear in behalf of Special Agent Dickson, now engaged in making payments to the Cherokee freedmen, and take such action before the court as will result in the dismissal or revocation of the writs of mandamus pending against him, I have the honor to advise you that it is reported to the Department that in addition to the mandamus directing Dickson to accept power of attorney in favor of F. B. Severs, mentioned in said Department letter, orders of similar character, issued by Judge Springer, are being served upon Agent Dickson from time to time, covering claims of other creditors, which is embarrassing the disbursing officer and prolongs the work of this payment.

I would be pleased to be advised as to what action has been taken by the United States attorney in the premises.

Very respectfully,

THOS. RYAN, *Acting Secretary.*

The ATTORNEY-GENERAL.

FORT GIBSON, IND. T., *April 29, 1897.*

Hon. CORNELIUS N. BLISS, *Washington, D. C.*

SIR: We, the undersigned authenticated Cherokee freedmen, residing in and belonging to the Cherokee Nation, and beneficiaries in the per capita strip funds of \$853,000 now being disbursed to the Cherokee freedmen, or which should be disbursed to said freedmen, at this place, would most respectfully petition and state that the way that the Cherokee freedmen strip per capita payment is being conducted and manipulated the Cherokee freedmen and beneficiaries of said strip fund have suffered and are suffering great hardships, on account of having to stay here so long waiting to get their per capita share of said strip fund. Several have been sick, two or three have died by reason of exposure—from inclement weather and exposure—waiting to get their pay.

Our people have been called together frequently by the paymaster and the day appointed for payment, but from some cause unknown to the beneficiaries, no payment would be made at the appointed time, but that the paymaster would tell the beneficiaries to go home to their crops and come again. Some of us live from 40 to 90 miles distant, and to make these trips is not only expensive but attended with hardships during the inclement weather, and we beg to refer you to the business men of every town and community in the Cherokee Nation to verify this statement.

We would further state that the Cherokee freedmen have all the while been orderly, and have, when paid their per capita strip fund, paid their just debts. We do most earnestly urge that you cause the paymaster to proceed with the payment at once. A large amount of our money is now tied up by one Mr. Severs, of Muscogee, Ind. T., by some kind of legal proceedings in the United States courts at Muscogee, Ind. T., and it has caused the beneficiaries a great deal of trouble and worry and physical suffering for the last five weeks.

We would further most respectfully state that we do not understand nor neither do we know the cause of this state of affairs or the reason for this delay. It is not from any fault of the Cherokee freedmen. By reason of this neglect to pay the beneficiaries many of them will not be able to raise any crops, many of whom have been here several weeks expecting that they would get their pay at once. By this delay and bad management many have suffered great pecuniary loss in their various avocations, etc.

We would further most respectfully say that we could assign other reasons why the paymaster should proceed without delay to pay us, but we do not want to worry you with our grievances; but we most earnestly pray you to see to it that the payment proceed without further delay, to the end that each beneficiary receive his or her per capita share of said strip fund without being forced to remain here several weeks, or made to return to distant homes and then return back, when in fact the paymaster could, if he would, pay us all off in a few days.

Please advise us and address J. Thompson, Fort Gibson, Ind. T.
Hoping that you will give this matter your attention at the earliest
moment possible,

With the highest considerations, we remain, most respectfully,

JOE ROSS.	NANCY TYNER.
ALEX. NIVENS.	MOSE DREW.
ISAAC WILSON.	WILL DEXTER.
JULY SMITH.	DELIA WALKER.
JOHN THOMPSON.	JAMES HENSON.
HENRY BUFINGTON.	WM. H. BROWN.
HARRY STARR.	PATSY JOHNSON.
JOHN BURGESS.	FANNIE E. BROWN.
LEWIS ARNABY.	MARTHA STARR.
WILL RIVHEY.	MARIA SMITH.
WESLEY FOREMAN.	ROBIN THOMPSON.
ELNORAH SANDERS.	MARGARET JENKINS.
MARY JANE MACKEY.	GEORGE JENKINS.
JOSEPH BROWN.	HARRIET SKATER.
ANNIE BROWN.	SAM BREWER.
DELILA SPIGHT.	GEORGE KING.
SARAH DAVIES.	GEORGE VANN.
WILLIAM DAVIES.	SAM VORE.
DAN SPIGHT.	ANDY CROSSLAND.
ELIZA ARNOLD.	WHEAT BALDRIDGE.
EMMA RILEY.	CLINA HILL.
EMMA MCAWAY.	SARAH LOGAN.
LU WILLIAMS.	SARAH THOMPSON.
FANNIE DELWOOD.	DANIEL ROACH.
CHARITY LANDRUM.	CHARLEY NAVE.
ROSA SMITH.	Mrs. POLLY YOUNG.
JENNIE SMITH.	ED J. ROSS.
HENRY DREW.	RUFUS NEVINS.
ROBERT CHILDERS.	WILLIAM BUFFINGTON.
JESSIE DARMON.	RICHARD THOMPSON.

[Telegram.]

MUSCOGEE, IND. T., *May 3, 1897.*

The SECRETARY OF THE INTERIOR,
Washington, D. C.:

Disbursing Agent Dickson is arranging to make collections for certain favored creditors of freedmen. The compromise which he makes is one which compromises the United States in our opinion, and will taint this payment with further scandal. While pretending to contest the recognition of powers of attorney, he has in fact made no real contest, but we believe that he has played into the hands of certain collectors, and has conspired to defeat the purpose of your instructions. His conduct of this payment has forfeited confidence and we recommend that it be taken out of his hands at once. The court having mandamused Dickson, the payments had best be made from Washington by check. Identification is substantially completed and of record, and such payment would be secure from interference. We have consulted with

United States Attorney Soper relative to the mandamus proceedings in Judge Springer's court. The writ issued on default March 26; judgment was final; court adjourned. Suspension payment would nullify proceedings and prevent consummation of what is apparently an understanding between Dickson and Severs. District attorney is of the opinion that the writ, if it had been properly contested, ought not to have been issued.

MCLAUGHLIN, *Inspector.*
GALBRAITH, *Captain of Cavalry.*

[Telegram.]

GIBSON, IND. T., *May 3, 1897.*

Hon. THOMAS RYAN,
First Assistant Secretary Interior:

I am here at the instance of Kansas men and find condition to be that J. G. Dickson, disbursing agent for the Cherokee freedmen, is assisting and protecting through power of attorney to claimants against the freedmen, and is about to issue checks direct to claimants against the freedmen, and is about to issue checks direct to himself to pay claimants and excludes all other claimants who have claims against freedmen. The United States court has issued a mandamus trying to compel Dickson to pay in this manner. Dickson refuses to appeal to court of appeals. The United States district attorney informs me that he is powerless to act to prevent this fraud unless instructed by the Attorney-General or your Department. Can you delay payment pending investigation? Will send you by mail full particulars and specifications if payment is continued in this manner; instructions to Dickson will be disregarded. Freedmen are opposed and excited concerning payment. Answer at once by wire.

J. G. CLOGSTON.

[Telegram.]

FORT GIBSON, IND. T., *May 3, 1897.*

Hon. THOS. RYAN,
First Assistant Secretary of Interior, Washington, D. C.

Disbursing Agent Dickson made public statement informing freedmen that those who would pay Claimant Severs could draw money, others could not; said claimant admitted to pay room; other claimants expelled; payment progressing.

J. B. CLOGSTON.

[Telegram.]

FORT GIBSON, IND. T., *May 4, 1897.*

The SECRETARY OF THE INTERIOR,
Washington, D. C.

The Dawes Commission take lunch here to-morrow en route to Tahlequah. Can't this matter be referred to them for investigation?

DICKSON, *Special Agent.*

[Telegram.]

FORT GIBSON, IND. T., May 4, 1897.

C. N. BLISS,

Secretary Interior Department, Washington, D. C.

F. B. Severs, a merchant of Muscogee, holds powers of attorney for about \$160,000, executed before a notary public by certain freedmen, for money and other valuable consideration, approximating \$50,000, upon which, as collateral, credit was obtained. Said powers were presented and payment thereon refused by me in fear of Treasury auditors; thereupon application for writ of mandamus was made and obtained upon me. I petitioned the court to quash the writ. Petition was refused Saturday. I threatened to take no more funds except upon an estimate itemizing individuals not involved with mandamus, and to take an appeal unless a compromise could be had whereby freedmen could receipt me, and pay only those of their accounts of which they all have statements, and to receive the difference at my table. McLaughlin advised this; the negroes asked for it; the district attorney approves it, and Severs conceded. I get a proper receipt, and payment progressed satisfactorily to-day, except to a few strolling horse traders, shyster attorneys, and other disreputables.

The freedmen slaughtered their creditors generally at Hayden and are of a worse disposition here, except in a few instances where they have overtraded. Freedmen want payment to conclude so as to get back to their fields. Under present compromise, freedmen will receive \$204,000 of \$264,000 yet to be disbursed. District attorney thinks this the best solution for myself and freedmen. Gibson, another merchant, applied for similar writ for small amounts. I am fighting it as a matter of departmental policy. If I lose, will force Gibson to a similar compromise. To defer this payment would be calamitous to the freedmen and ruin many worthy merchants of this section. Can conclude payment by about the 20th. Negroes waiting and anxious. Auswer.

DICKSON, *Special Agent.*

FORT GIBSON, IND. T., May 4.

The SECRETARY OF THE INTERIOR,

Washington, D. C.:

We are informed one Clogston, and an attorney for Kimball, a horse trader, wired our paymaster publicly announced freedmen who would not pay Mr. Severs would not get paid. Dickson said no such thing. If contending creditors are allowed to interfere further we will lose more in crops than our payment is worth. We are satisfied with yesterday's method of paying. In the name of mercy and justice, let us be paid and get to work.

L. T. ROSS,
L. D. DANIELS,
JOHN FIELDS,*And Other Freedmen, Committee.*

DEPARTMENT OF THE INTERIOR,

Washington, May 4, 1897.

FRANK C. ARMSTRONG,

Of Dawes Commission, Fort Gibson, Ind. T.:

Considerable trouble reported regarding payment to freedmen. Have ordered payment suspended and sent Army officer to take charge

of funds and complete payment. Would be glad to have an independent telegraphic report from you as to condition of affairs.

C. N. BLISS, *Secretary.*

DEPARTMENT OF JUSTICE,
Washington, D. C., May 4, 1897.

SIR: I have the honor to inclose a copy of a telegram just received from the United States attorney at Muscogee, Ind. T., in relation to the mandamus proceedings against Special Agent Dickson of your department. The telegram is not altogether clear.

I will communicate further with you immediately upon the receipt of the district attorney's letter.

Respectfully,

JOSEPH MCKENNA,
Attorney-General.

The SECRETARY OF THE INTERIOR.

[Telegram.]

MUSCOGEE, IND. T., *May 3, 1897.*

The ATTORNEY-GENERAL,
Washington, D. C.:

Jackson, late attorney, just advised me that he was advised by counsel for Service (Severs?) that Dickson positively did not want matters pushed in mandamus case; that he was convinced that there is an understanding between Dickson and Service. Dickson was to receive \$5,000. Dickson advised me that he had instructions from Interior Department to obey any orders court might make in mandamus proceedings. His removal would render absolutely all legal process which has been obtained on account of default on March 26. Dickson has stated that he now had them where he wanted them. Recommend that Secretary of Interior be advised. Letter by mail.

SOPER, *United States Attorney.*

DEPARTMENT OF THE INTERIOR,
Washington, May 4, 1897.

SIR: Considering further the matter of the Cherokee freedmen payment, I have to advise you that I have decided to relieve Special Indian Agent Dickson and send another special disbursing agent to finish the payment. You will therefore notify Special Agent Dickson by telegraph to immediately turn back into the Treasury, to the credit of the United States, all of the Cherokee freedmen funds and all other public funds now in his hands or on deposit to his official credit, and submit his accounts to final settlement. Instruct him to notify you by wire when he has covered the freedmen fund back into the Treasury so that you will know as soon as it becomes available for his successor.

I suggest also that you cause the freedmen now in waiting at the place of payment to return to their homes and await further notice of the resumption of payment, as I understand that many of them are there, neglecting their farming operations, etc. Let them know that payment will be resumed as soon as practicable, and timely notice thereof given.

Very respectfully,

C. N. BLISS, *Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
Washington, May 4, 1897.

FRANK C. ARMSTRONG,
Of Dawes Commission, Fort Gibson, Ind. T.:

Considerable trouble reported regarding payment to freedmen. Have ordered payment suspended, and sent army officer to take charge of funds and complete payment. Would be glad to have an independent telegraphic report from you as to condition of affairs.

C. N. BLISS, *Secretary.*

[Telegram.]

FORT GIBSON, IND. T., May 5, 1897.

The SECRETARY OF THE INTERIOR,
Washington, D. C.:

Your telegram received. I have notified all unpaid freedmen to go to their homes and await further action by the Department. McLaughlin should be ordered to report to you. He understands the situation. A special agent of the Treasury Department should be directed to make payment here as soon as all matters are adjusted under your orders. The rolls should be thoroughly examined before further payment is made. Dickson should be ordered to Washington with his clerk to close his accounts and rolls. He has been ordered to turn all money to his credit back into the Treasury. I will remain here until I hear from you.

F. C. ARMSTRONG.

[Telegram.]

FORT GIBSON, IND. T., May 6, 1897.

The SECRETARY OF THE INTERIOR,
Washington, D. C.:

I have notified the people awaiting payment to go to their homes and work their crops. It will take thirty days to examine rolls and get them in shape to resume payment. McLaughlin and Dickson, with all rolls and papers, should be called at once to Washington, and the entire matter thoroughly examined by the Indian Office. When this has been done some one should be designated to make payment under the supervision of Inspector McLaughlin, who thoroughly understands the situation. Under no circumstances should this payment continue until after the whole matter is thoroughly examined by the Department. It will take several weeks.

FRANK C. ARMSTRONG.

[Telegram.]

DEPARTMENT OF THE INTERIOR,
Washington, May 6, 1897.

MCLAUGHLIN,
Inspector, Fort Gibson, Ind. T.:

Notify all freedmen that payment is suspended until further notice, and then report in person at this Department for consultation.

C. N. BLISS, *Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, May 6, 1897.

SIR: Referring further to the matter of the Cherokee freedmen payment at Fort Gibson, Ind. T., I request that Special Agent Dickson be ordered to report in person at your office with the freedmen rolls and all papers relating to the payment, and that you cause the same to be thoroughly examined for the final settlement of his accounts to date, and for the completion of the payment by another person. I also request that when Special Agent Dickson arrives in this city you require him to submit his accounts for final settlement at the earliest practicable date.

Authority is also hereby given to Special Agent Dickson's clerk to report in person at your office to assist in the examination of the freedmen rolls and the preparation of Mr. Dickson's accounts, if such assistance from him is deemed necessary.

Very respectfully,

C. N. BLISS, *Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

[Telegram.]

DEPARTMENT OF THE INTERIOR,
Washington, May 6, 1897.

ARMSTRONG,

*Acting Chairman Commission to the Five Civilized Tribes,
Fort Gibson, Ind. T.:*

I have ordered Dickson and McLaughlin to report here in person with freedmen rolls and all papers, for examination, and Dickson to close his accounts, as recommended by you. When ready to resume, an army officer will be detailed and the freedmen notified.

C. N. BLISS, *Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, May 6, 1897.

SIR: Referring further to my request for an army officer to complete the payment to the Cherokee freedmen, now in progress at Fort Gibson, Ind. T., I have the honor to say for your information that I have ordered the special agent who has been making the payment to report in person at this Department, with the rolls of the freedmen and all other papers relating to the payment, to the end that they may be carefully examined before being turned over to the officer who may be detailed to relieve the special agent.

It will probably take three or four weeks to complete this examination and get ready to resume the payment, and therefore it is not likely that it would be necessary for the officer to leave this city earlier than the 20th instant, and possibly not earlier than June. However, if the officer selected is not already in this city, I think it would be important for him to come here to examine the rolls and receive personal explanations of them and personal instructions at the Indian Office before beginning payment.

Very respectfully,

C. N. BLISS, *Secretary.*

The SECRETARY OF WAR,
Washington, D. C.

FORT GIBSON, IND. T., *May 6.*COMMISSIONER INDIAN AFFAIRS,
Washington, D. C. :

Rolls and accounts being closed rapidly as possible. Balances will be deposited as soon as ascertained.

DICKSON, *Special Agent.*

 FORT GIBSON, IND. T., *May 6, 1897.*

SIR: I have wired you such suggestions as seemed to me the most expeditious and proper manner of finally settling the payment to the freedmen in this nation. From all I can learn it has been a very unsatisfactory proceeding from the commencement. The rolls are incorrect, and over one hundred duplications of names, while many are left off entirely, who have a perfect right to have their names enrolled. All these matters should be carefully examined and corrected before any more money is paid. The only proper method is to have the rolls with the evidence submitted to the Indian Office for revision, and have Inspector McLaughlin there to go over the whole business with Agent Dickson, and some one designated by the Department to continue the payment after these examinations have been made. In the meantime the people waiting here are leaving to-day for their homes by my advice to look after their crops, etc., suffering for want of attention.

There has been congregated here for weeks a motley crowd of several thousand idle negroes, white gamblers, and fakes to fleece those who have drawn money. Had not the troops been on the ground serious consequences would have resulted. These troops are absolutely necessary here and should be retained until all matters connected with the payment to the freedmen and our negotiations with the Cherokees are completed.

By deferring the payment thirty or forty days the people who have any crops can go to work and attend to them, and the hangers-on will disperse. For weeks this motley, demoralized crowd has been lingering along, with no satisfactory results, and squandering whatever was paid, the result of which, if allowed to continue, will be no crops and starvation in the winter. The negroes have generally anticipated the payment and gotten credit among traders, both here and in Kansas, for more than they can pay.

There is but one correct manner of paying; that is to pay to each claimant what is actually due him, and let creditors collect from him. The United States Government agent should not undertake to settle any debts or have anything to do with the collection or payment thereof.

I refer you to your inspector, McLaughlin, a man thoroughly competent and understanding perfectly every phase of this complicated matter, and I respectfully suggest that when you send someone to resume this payment that he (Inspector McLaughlin) be ordered to supervise and direct it.

Efforts will be made to get you to order immediate resumption of payment, and a delay for thirty days—and it will require that time to straighten out the rolls—will quiet matters down and have beneficial results.

Very respectfully,

FRANK C. ARMSTRONG.

The SECRETARY OF THE INTERIOR.

S. Doc. 136—2

[Telegram.]

FORT GIBSON, IND. T., *May 7.*

COMMISSIONER INDIAN AFFAIRS,
Washington, D. C.:

Cherokee Outlet funds covered back to credit of United States Treasury.

DICKSON, *Special Agent.*

[Telegram.]

FORT GIBSON, IND. T., *May 7, 1897.*

The SECRETARY OF THE INTERIOR,
Washington, D. C.:

It will expedite all matters if Dickson is permitted to take his clerks to Washington. The condition of the rolls and complications make it necessary to an examination, and to close properly his business new rolls will have to be made, and, in justice to all concerned, I hope this request will be granted.

FRANK C. ARMSTRONG.

FORT GIBSON, IND. T., *May 7, 1897.*

DEAR SIR: I have wired you twice relative to matters here connected with the freedmen's payment, and have also sent (yesterday, 6th) a letter with fuller statement. I have not gone into the report of the acts or conduct of Special Agent Dickson, leaving that for your inspector, McLaughlin, who has been here for some weeks; but I must report my recommendation that the Department immediately stop anything looking toward the resumption of this payment until you are fully satisfied by a very thorough examination of rolls, payments, and claims of other freedmen entitled to be enrolled. A just and fair payment by the United States can not be made to these people under the present condition and arrangement, and it is a reflection upon your Department to allow this thing to go on without a searching examination to satisfy yourself that it should.

For my part, I am convinced that crookedness from the commencement of the roll-making, a year ago, to date has been practiced by some parties connected with it. The roll itself is incorrect, and over 100 names duplicated, etc.

I write this to again call your attention to it, as I have reason to think telegrams from this country are not always forwarded promptly or correctly.

With respect,

FRANK C. ARMSTRONG.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF JUSTICE,
Washington, D. C., May 8, 1897.

SIR: I have the honor to inclose herewith copies of two letters, dated the 3d instant, just received from Mr. P. L. Soper, United States attorney for the northern district of the Indian Territory, in relation to the

mandamus proceedings against Special Agent James G. Dickson, together with the papers sent by him.

Your attention is invited to the fact that on March 16 notice was served on Mr. Dickson that on the 26th an application would be made to the court for a writ of mandamus; that Mr. Dickson did not appear, and no one was heard in his behalf, and that it was not until March 27 he advised the Commissioner of Indian Affairs that the writ had been issued against him. By your letter received here on March 31 this Department was requested to defend Mr. Dickson, and on the same day instructions were given to the United States attorney.

I shall await your further communications before answering the United States attorney's letters. Please return inclosures.

Respectfully,

JOSEPH MCKENNA,
Attorney-General.

The SECRETARY OF THE INTERIOR.

MUSCOGEE, IND. T., *May 3, 1897.*

SIR: Replying to your favor of April 22, 1897, requesting a report as to what action, if any, has been taken by me under your instructions to appear in behalf of Special Agent Dickson, in the proceedings against him growing out of the payment to the Cherokee freedmen, I have the honor to state that I was advised that my predecessor, Mr. C. L. Jackson, had been instructed to represent Mr. Dickson in these proceedings, and that he had investigated the same and was prepared to argue them before the court.

They were continued by the court until April 26, and for the reason that he had gone to the trouble of investigating them. I did not qualify until April 27, as I was advised by the court that they would be disposed of on April 26.

Upon my arrival in Muscogee I learned that my predecessor had filed a motion to quash the writ of mandamus heretofore issued from the United States court, sitting at Vinita, and which court had finally adjourned at the time. This motion was filed in the United States court at Muscogee, and on account of the absence of Mr. W. T. Hutchings, attorney for F. B. Severs, was not to be heard until Saturday, May 1. Hon. W. R. Grace represented a number of persons interested in having the writ of mandamus quashed, and was assisting the United States attorney. I advised the attorney for the plaintiff immediately upon becoming aware of the situation that I could not see what good could be accomplished by the discussion of this action, as our practice does not provide for such a measure to effect a final judgment after the adjournment of the term. The attorney for the plaintiff, however, stated that he desired to present the entire matter to Judge Springer, in order to convince me that the writ of mandamus was rightfully issued, and that Judge Springer would not disturb it if the United States attorney had taken the proper course.

I have the honor to inclose herewith copies of all pleadings filed in the cause. The petition for a writ of mandamus was filed in the United States court at Vinita, March 13, 1897, and notice for the writ was served upon Special Agent Dickson on March 16, 1897, returnable on March 26, 1897. Mr. Dickson did not appear to contest the motion, neither did the United States attorney, Mr. Jackson, and the writ of mandamus was issued by Judge Springer without any appearance by defendant; to which writ there was attached a list of parties whom plaintiff, F. B. Severs, claimed had given him powers of attorney.

I am unable to find in this office your telegram to the United States attorney to appear on behalf of Mr. Dickson, but he advises me that this telegram was received on March 28, two days after the granting of this final order.

By act of Congress approved March 2, 1890, chapter 100, relating to mandamus and prohibition, of Mansfield, 1884 edition, was put in force in the Indian Territory, and the proceedings were had in accordance with the provisions of that chapter. (See p. 908, Mansfield Digest, 1884.) Sections 5063 and 5064 of Mansfield Digest, in force in the Indian Territory, are as follows:

"SEC. 5063. If the action, counterclaim, or set-off is founded on a note, bond, bill, or other writing as evidence of indebtedness, the original, or a copy thereof, must be filed as part of the pleading, if in the power of the party to produce it. If not, the reason thereof must be stated in the pleading. If upon an account, a copy thereof must, in like manner, be filed with the pleading (pp. 11., sec. 138, as amended 1871).

"SEC. 5064. If either party shall rely upon any deed or other writing, he shall file with his pleading the original deed or writing, if in his power, or a copy thereof. If he can not procure such deed or writing, or a copy thereof, he shall so state in his pleading, together with the reason therefor; and, if such reasons are sufficient, he may file the best evidence of the contents of such deed or writing in his power. Original deeds and other writings, filed by either party, shall remain on file for the inspection of the other party until allowed by the court to be withdrawn, and in such cases copies attested to by the clerk shall be substituted by the parties withdrawing the original. (Ib., sec. 148, as amended 1871.)

You will readily see that there were no copies of the assignment or powers of attorney filed with the petition as required by the statute, and the judge of the court before making the order ought to have required the powers of attorney or assignments to be filed with the clerk as required by this statute.

It is claimed by the court that this fault is cured by the judgment, but I am unable to construe it in that light, for the reason that this is a mandatory provision and requirement before any judgment can be entered.

You will also note that there is no authority shown in the petition for the writ for each individual to give the power of attorney for the members of his family, nor does the same appear of record in any place whatever. As a matter of fact, a great many of the persons are minors.

A copy of the journal entry granting the writ is also inclosed, but it does not show that the judgment was made on default, which, however, might be considered immaterial, except that an action of this character, in my opinion, should not have been taken without every requirement of the statute being observed and the evidence being introduced. The court at the time had no evidence, nor was any offered, as to the regulations of the Interior Department. I presume, however, that that would have been unavailing, as the court said Saturday, May 1, the power rested with the court to supervise any regulation that might be issued.

I also have the honor to inclose herewith a copy of the instructions received by Special Agent Dickson, respecting the manner of making this payment, and also a circular letter from the Auditor of the Interior Department, concerning powers of attorneys.

In the argument before the court on Saturday, which, however, in my opinion, was purely pro forma, the court agreed with counsel for the Government that if this was a debt of the United States, a writ of mandamus would not lie, but the court maintained that this was not a debt of the United States, but a debt of the Cherokee Nation. In this conclusion of the court I can not agree for the reason that the political history of this money shows conclusively that it is a debt of the United States and was reserved by the United States out of the purchase price of the Cherokee Outlet. The amount due the citizens of the Cherokee Nation whose citizenship was then established was delivered to the Cherokees in 1894; the payment thereof was made by them. This money was held by the Government and not derived from the bonds which were issued, which were sold by the Cherokees, upon which bonds the payment was made in 1894, but this money was held by the Government for payment to each freedman as a Cherokee after the rights of each individual freedman had been established.

I argued that this being a debt of the United States, it was not subject to any orders unless in form prescribed by law, and that the Cherokee freedmen were for the purpose of this payment Cherokees, and as such entitled to the protection of the Government the same as if they were actual Indians, and that control and supervision over them rested entirely in the Interior Department, which had the lawful right to make regulations concerning the payment, and I read to the court the instructions of Mr. Dickson, and also the circular letter concerning payments on powers of attorneys, as to what must be established before such payments would be recognized, but the court held that this was not a judicial discretion, while I maintained that the writ of mandamus could only issue against any officer to do a certain act, when there was not vested in him a right to elect in what manner the act may be performed, or whether the payment might be made to him direct, or to other persons. The court, however, stated that he was convinced that it was for the best interest of the freedmen themselves that all of this money should be paid to Captain Severs, which, I understand, amounts to over \$150,000, and that the court has every confidence in his honesty and integrity. Practically the action of the court in granting the writ of mandamus at Vinita took away from Special Agent Dickson all discretion given him in his instructions, and is in violation of law, as I consider it, and as laid down in *Lerrell on Mandamus* in section 110.

These powers of attorney, a copy of which I inclose herewith, were only signed by the head of the family, and in many instances the amount owing Captain Severs is small, while the amount to be drawn is quite large, depending, of course, upon the number of the family. If Special Agent Dickson is to obey this writ of mandamus he must pay to Captain Severs every order which he presents which is properly

attested, as discussed in the decisions of the Supreme Court of the United States, quoted in the opinion from the Auditor of the Interior Department, a copy of which I have inclosed. Mr. Dickson advised me that he was in receipt of instructions from the Interior Department to follow the order of the court, no matter what it was, and claimed that control of proceedings rested with him, but I deem it my duty to take my instructions only from your office.

This morning Major McLaughlin, an inspector of the Interior Department, and Captain Galbraith wired the Secretary of the Interior, a copy of which telegram I inclose. There are a number of the creditors who are endeavoring to collect their claims, and I strongly opposed the establishment of a principle that the Department of the Interior can not regulate in what manner payments shall be made, and I specifically call your attention to the express requirement given to Special Agent Dickson, upon page 4 of his instructions, which are as follows:

"All payments are to be made by check, payable to the order of the freedmen entitled, which must be placed directly in their hands."

Special Agent Dickson stated that he was indifferent as to what was done, and was entirely satisfied with the order of the court if it protected him.

There has been a great deal of scandal growing out of this payment, and a special grand jury was convened at Vinita in March to investigate it, but no indictment was found for the reason that the giver of a bribe is equally guilty as the receiver, and it seems that no efforts were made to make Government witnesses out of any of the bribers or alleged bribers. Concerning the facts I know nothing, except by general rumor. I have advised Special Agent McLaughlin that the best way to avoid the effect of such a precedent, which practically nullifies the control of the Department, is to discontinue the payment by Special Agent Dickson, and to either pay the freedmen direct from Washington or to send another paymaster, as the writ under the Supreme Court is against the individual and not against the officer; and if a new paymaster was appointed the present proceedings would become nugatory, and if further proceedings were attempted a proper and complete defense, in my opinion, could be made, and, after the introduction of evidence, ground could be laid for an appeal.

There are three remedies which, under the present condition of affairs, can be resorted to if Mr. Dickson is continued as paymaster:

First. Have him to refuse to honor the power of attorneys, and upon proceedings against him for contempt evidence can be introduced and an appeal taken on habeas corpus proceedings.

Second. An appeal to the United States court of appeals of the Indian Territory. The court will take judicial notice of the rules and regulations of the Department of the Interior, and I take it that this might be broad enough to include the special instructions which Mr. Dickson received as a public officer. I have not thoroughly investigated this matter, but there is no record of the evidence introduced on the hearing. This proceeding, however, in my opinion, would be unavailable for the reason that since beginning to dictate this letter I have been advised that there is an understanding between Mr. Dickson and Mr. Severs, and that he would go ahead with the payment, notwithstanding the appeal.

Third. By a bill in equity to enjoin the writ of mandamus, although I have not thoroughly looked up this subject.

Numerous charges were filed against Mr. Dickson on account of the manner in which he conducted the Shawnee payment, which preceded this payment, but I am not advised whether or not there was a hearing upon this matter.

I also have the honor to inclose herewith a brief of the authorities used by both sides.

Under the present condition of affairs I think the rights of the Government can best be protected to prevent the establishing of such a precedent controlling the discretion of the disbursing officer by following the recommendation made by Inspector McLaughlin, of the Interior Department.

If this recommendation is followed, no further legal proceedings are necessary for the reason hereinbefore given, that the writ would die with the removal of Mr. Dickson. If Mr. Dickson is to be continued, I would advise further proceedings in accordance with law.

Respectfully,

The ATTORNEY-GENERAL,
Washington, D. C.

P. L. SOPER, *United States Attorney.*

MUSCOGEE, IND. T., *May 3, 1897.*

SIR: Since dictating the previous letter, which I have the honor to inclose herewith (jacketed separately), together with all papers upon this subject, Mr. Clifford

L. Jackson, my predecessor, came into my office and advised me that in a conversation he had with plaintiff's attorney, wherein plaintiff's attorney asked him if he intended to push this contest against the issuance of the mandamus, and was advised that he did on account of instructions from you, that plaintiff's attorney, Mr. W. T. Hutchings, told him that Mr. Dickson did not want the matter pushed, and that either he knew or believed that there was an understanding between Captain Severs and Mr. Dickson, and that Mr. Dickson was to receive \$5,000 for paying the powers of attorney to Captain Severs. I questioned Mr. Jackson closely, and he states positively that the sum of \$5,000 was mentioned in the conversation. I thereupon wired you as follows:

"Jackson, late attorney, just advised that he was advised by counsel for Severs that Dickson's special agent did not want matters pushed in mandamus case; that he was convinced there was an understanding between Dickson and Severs, and Dickson was to receive \$5,000. Dickson advised me that he had instructions from the Interior Department to obey any order court might make in mandamus proceedings. His removal would render absolutely nugatory legal process which has been obtained on account of default on March 26. Dickson has stated that he now had them where he wanted them. Recommendation that Secretary of the Interior be advised. Letter by mail."

My stenographer, Mr. N. L. Rider, advises me that Mr. Dickson stated Saturday evening to him that he now had them where he wanted them. I have known Captain Severs for several years and I believe him to be an honest, upright man; and while, of course, there may be no possible way to get at the exact truth, yet it seems strange that Mr. Dickson should not appear at Vinita on the 26th of April to answer the writ of mandamus. He advised me, as I have written you, that the matter of appeal rested with him, and I am advised by others that he stated that I was simply his attorney and he could discharge me if he saw proper. He further advised me that he had a telegram from the Department of the Interior directing him to obey the order of the court, but I am now convinced that this telegram relates to his appearance before the grand jury.

He was served with the application for the writ of mandamus on March 16, and it would seem that no instructions were given the United States attorney until by wire on March 28. His remark to me on last Saturday that he was instructed by the Department to obey any order that the court might make misled me, as I am now convinced, and, of course, I can only guess why he made that remark to me. Being a Government officer, and the proceedings being upon his request, as I understood it, I believed him. The Department of the Interior will know whether such an order was sent him or not; if it was, I suppose no further legal action need be taken. Inspector McLaughlin and Captain Galbraith, of the United States Army, have advised me that Mr. Dickson has taken powers of attorney to himself, which is in direct violation of sections 162 and 163 of the regulations of the Indian Office.

I would have advised you on Saturday, but, although I had two stenographers, I could not secure the copies of the pleadings until to-day, and I received your telegram after I had wired you and after I had dictated my first letter.

Respectfully,

P. L. SOPER, *United States Attorney.*

The ATTORNEY-GENERAL,
Washington, D. C.

[Personal.]

FORT GIBSON, IND. T., *May 9, 1897.*

Maj. JAMES M. McLAUGHLIN.

MAJOR: Since the payment party left, quiet and peace seem to reign.

There are some points which the Secretary should be thoroughly posted and informed on.

First. Not another dollar should be paid on the roll until it is cleared of all who do not properly belong to it.

Second. There are a number of freedmen entitled to enrollment on it who have been left off.

Third. A new order and new man should pay, and under new instructions, plain and positive. It will be necessary for the correction and

perfection of the roll to be made before the payment is ordered to commence, as investigations and questioning the correctness delay while the payment is going on. The people should not be notified to assemble until the roll, etc., is already to be paid on.

Fourth. The Secretary should inquire particularly into the antecedents connected with Kerns, Milton Turner, and others in getting up this roll; also should be informed as to the \$136,000 deal by the Cherokee side of it.

In fact, I think a Congressional investigation should be made if the truth and facts can not be otherwise reached.

The rascally deals in handling rolls, etc., and in getting up the rolls should be looked into. A committee investigation in Washington would be better than any hurried one down here, where every bummer and disreputable witness can be brought into service. McConelhay and yourself should know the imperfections of the roll. Its creation Dickson is not responsible for. The Cherokee side of it are as equally culpable, I expect, as the others.

It should be given out from Washington that no further payment will be made until the Secretary is satisfied of the correctness of the roll. If something of that kind is not done, word and inducements will be wired and written out here, by interested parties, that the payment will be resumed and the same parties will make it, etc., and this same old story will be repeated. Great pressure will be brought on the Secretary and Commissioner of Indian Affairs to hasten it, but there is where the mistake was made by Mr. Francis. He listened to his St. Louis merchants, who were anxious to get their payments from these local merchants. They did not care what negroes were paid, so their money was collected.

You can read this to the Secretary, if you desire. but as I have nothing more to do with it, I only wish to see the Department kept right on the subject.

Yours truly,

F. C. A.

Maj. JAMES M. McLAUGHLIN.

WASHINGTON, D. C., *May 13, 1897.*

Respectfully referred to the honorable Secretary of the Interior for his information.

JAMES McLAUGHLIN,
United States Indian Inspector.

FORT GIBSON, IND. T., *May 11, 1897.*

Inspector JAMES McLAUGHLIN,
Indian Office, Washington, D. C.:

Dickson has telegraphed Walker to have business men urge by wire immediate payment of present rolls.

GALBRAITH.

WASHINGTON, D. C., *May 11, 1897.*

Respectfully referred to the honorable Secretary of the Interior.

JAMES McLAUGHLIN,
United States Indian Inspector.

[Telegram.]

FORT GIBSON, IND. T., *May 13, 1897.*SECRETARY INTERIOR DEPARTMENT,
Washington, D. C.:

About 1,500 freedmen camped here, and unable to return home; are impatiently awaiting continuance of payment. No objection has been found to Dickson. His honesty and strict adherence to duty being acknowledged, should he be returned with explicit instructions and continue payment universal satisfaction would be manifest. See freedmen petition.

R. M. WALKER, *Mayor.*

[Telegram.]

FORT GIBSON, IND. T., *May 13.*SECRETARY OF THE INTERIOR,
Washington, D. C.:

Message recently sent you regarding payment is false; not prevailing sentiment.

G. W. LYNCH.

FORT GIBSON, IND. T., *April 23, 1897.*

SIR: Having been in attendance from the beginning of the payment, I have to say that in my opinion it has not been creditably managed by Mr. Dickson, and I am convinced that he is not a safe man to be intrusted with the interests of the United States nor of the beneficiaries. Vacillation is characteristic.

I believe that a scheme is about to be consummated which would wrong many beneficiaries and leave them practically without redress. To frustrate such a consummation I respectfully suggest the payment should be suspended, and disbursing agent designated who will have the confidence of all.

Respectfully,

J. G. GALBRAITH,
*Captain, First Cavalry.*Maj. JAS. McLAUGHLIN,
*Inspector.*WASHINGTON, D. C., *May 13, 1897.*

Respectfully referred to the honorable the Secretary of the Interior for his information.

JAMES McLAUGHLIN,
United States Indian Inspector.

[Telegram.]

MUSCOGEE, IND. T., *May 17, 1897.*Hon. THOS. RYAN,
Washington, D. C.:

I will appreciate it personally if matter can be arranged in order to protect F. B. Severs on amount that is actually due him. Can't matter be compromised by amount owing to Severs being paid him direct on

orders and balance to freedmen? Severs has not robbed the freedmen, and the amount owing him consists of honest obligations. No creditor desires to beat Captain Severs out of money that is justly due him, and the freedmen ought to pay their honest obligations. Severs can not pay his creditors, who are many, unless he can collect what is honestly due him.

P. L. SOPER.

[Telegram.]

WAGONER, IND. T., *May 18, 1897.*

Secretary BLISS,
Washington, D. C.:

Dickson payment is said by all business men of Cherokee Nation to be most corrupt and rotten of any piece of work ever done there. This matter should be looked into.

S. S. COBB,
Republican Executive Committeeman.

DEPARTMENT OF THE INTERIOR,
Washington, May 18, 1897.

SIR: I have the honor to recommend that James G. Dickson, special United States Indian agent, be authorized to proceed to his home at St. Louis, Mo., taking with him the Cherokee freedmen rolls for completion, preparatory to rendering an accounting of the same; that he be authorized to employ Mr. Thomas J. Watts, and to pay his expenses, including railroad fare from his home at Talala, Ind. T., to St. Louis, Mo., and a per diem of \$3 per day and subsistence, not to exceed \$2 per day from the date of his leaving his home to and including the date of his return thereto, not to exceed twelve days; also that he be authorized to employ his son, J. S. Dickson, for a period not exceeding ten days, and at not to exceed \$3 per day, without subsistence. The services of these clerks are necessary to enable him to close the rolls.

This course is deemed wisest and best under the circumstances.

Very respectfully,

THOS. P. SMITH,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, May 19, 1897.

SIR: I am in receipt of your communication of 18th instant, in which you recommend that James G. Dickson, special United States Indian agent, be authorized to proceed to his home at St. Louis, Mo., taking with him the Cherokee freedmen pay rolls for completion, preparatory to rendering an accounting for the same; that he be authorized to employ Mr. Thomas B. Watts, and to pay his expenses, including railroad fare from his home at Talala, Ind. T., to St. Louis, Mo., and a per diem of \$3 per day and a subsistence not to exceed \$2 per day from the date of his leaving home to and including the date of his return thereto—not to exceed twelve days; also that he be authorized to

employ his son, J. S. Dickson, for a period not exceeding ten days, at not to exceed \$3 per day, without subsistence. The services of these clerks are necessary to enable him to close the rolls.

In response, you are advised that it is deemed best that this work should be completed in your office, and you will so instruct the special agent, and require him to complete the same without unnecessary delay.

You will please furnish him with all the clerical assistance required, and authority is hereby granted for one or both of the parties named to come to Washington, if actually needed as witnesses to the pay rolls, but for no other purpose, at the compensation named, with the understanding that they are not to be sent for until the papers are ready for their signatures, so that they need not be kept here on pay more than one day.

Very respectfully,

THOS. RYAN,
First Assistant Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
Washington, May 22, 1897.

SIR: You are hereby detailed to distribute the remainder of the funds to be paid to the Cherokee freedmen under final decree of the Court of Claims, in re Charles Journeycake *v.* The Cherokee Nation et al.; Johnson Blackfeather, principal chief, *v.* The Same; Moses Whitmire, trustee, *v.* The Same (Nos. 16837, 16857, 17209, decided January 27, 6189).

For the purpose of this detail you are designated a special disbursing agent and are required to give bond in the penal sum of \$300,000. You are authorized to employ two clerks and one interpreter at \$3 a day each, and a messenger at \$2.50 a day.

You will proceed at once to Fort Gibson, Ind. T., and enter upon and complete this business as expeditiously as possible. Inspector McLaughlin has received orders to be present at the payments.

Very respectfully,

C. N. BLISS, *Secretary.*

Mr. DEW M. WISDOM,
Indian Agent, Union Agency, Ind. T.
(Through the Commissioner of Indian Affairs.)

DEPARTMENT OF THE INTERIOR,
Washington, May 22, 1897.

SIR: By Department letter of this date, United States Indian agent, Dew M. Wisdom, of the Union Agency, Okla., is designated to complete the payment to the Cherokee freedmen.

Mr. Wisdom has been required to enter into a bond in the sum of \$300,000, and this amount, with his present bond, will enable the Department to place in his hands the balance due these freedmen so that payment can be made without any delay.

You will please have the necessary rolls for payment prepared as soon as possible, so that when the bond is received and approved payment may be proceeded with at once.

United States Indian Inspector McLaughlin has been directed to proceed to the Indian Territory and be present at the payment.

Very respectfully,

C. N. BLISS, *Secretary.*

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR,
Washington, May 25, 1897.

SIR: In compliance with your request by telegram of to-day, and on the recommendation of the Commissioner of Indian Affairs, the penalty fixed by Department letter of the 22d instant for the bond under which you are to complete the payment to the Cherokee freedmen is hereby reduced from \$300,000 to \$100,000.

Very respectfully,

C. N. BLISS, *Secretary.*

Mr. DEW M. WISDOM,
Indian Agent, Union Agency, Ind. T.
(Through the Commissioner of Indian Affairs.)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, June 3, 1897.

SIR: You are advised that under date of the 22d ultimo the honorable Secretary of the Interior designated you to complete the payment to the Cherokee freedmen. To that end steps have been taken to place to your official credit with the assistant treasurer at St. Louis, Mo., the sum of \$100,000, first of three installments to be sent you for the purpose of enabling you to complete the payment of \$262,359.87, the amount remaining unpaid to the Cherokee freedmen, under the provisions of the act of Congress approved March 3, 1893 (27 Stats., 612-641), and a decree of the Court of Claims in the case of "Moses Whitmire, trustee for the freedmen of the Cherokee Nation, v. The Cherokee Nation and the United States," final decree in which case was entered by the court on February 3, 1896.

Under date of April 23, 1896, instructions were given a commission consisting of Messrs. William Clifton, Robert H. Kern, and William B. Thompson, for their guidance in preparing a census of the Cherokee freedmen to enable this office to carry out the provisions of the act above referred to, and from the census roll prepared by them, in accordance with said instructions, a roll was prepared, complete, for the purpose of making the payment to the freedmen, and upon which rolls the sum of \$596,621.13 appears to have been paid Special Agent Dickson. To enable you to complete this payment, supplemental rolls have been prepared, in triplicate, containing all the names of all those unpaid, which will this day be sent you by Adams Express, together with the duplicate roll of the original roll first prepared, the latter roll to be used by you in connection with the other rolls in making the payment. A copy of the census roll will also be sent you to-day, in connection with the other rolls, to be used by you in making this payment, as questions may arise during said payment the settlement of which could only be accomplished by reference to said census roll.

An index of the roll has been prepared and will accompany the roll. A number of papers denoting protests also accompany the rolls, for your information and guidance.

A number of identification papers, the duplicates and triplicates of which are in the hands of the freedmen, are also sent you for use in connection with this payment.

After payment, the original and duplicate rolls to be returned to this office with your accounts, which you will please not confound with your regular quarterly accounts, but make it a special account. The triplicate roll to be retained by yourself.

You will make no change in the original roll as it now stands.

The census roll and the index to the pay roll you will take special care of and return to this office, together with the duplicate of the original roll and all other papers relating thereto, in the same manner that they were sent to you after the payment has been completed.

The names are arranged on the roll, as far as possible, in family groups.

The father and head of the family to be allowed to receive and receipt for his own share and the shares of his wife and minor children, except as hereinafter provided.

If, through any cause, such as sickness, very old age, or incompetency, the husband and father is unable to present himself to receive and receipt for the family money, the wife may be allowed to receive the money for him and their minor children, and to receipt for all.

If the husband is a notoriously unfit person to handle the money of his wife and children, either on account of drunkenness, a taste for gambling, or any other disqualifying vice, or if he is noted for not providing for his family, but has previously neglected it, and now comes forward to take possession of this money, you will pay him his own personal share only, and pay the mother her own share and the shares of her minor children.

If a husband and wife are separated, pay each one his or her own share, and pay to the parent caring for and supporting any of the minor children the share of said children.

If a freedman has more than one wife, you will pay to him his own share and the share of the wife with whom he is living and her minor children. The shares of the other wife or wives and their minor children will be paid to said wife or wives. If, however, all are living together you will recognize him as the husband of the first wife only, and allow the other wife or wives to draw their shares and the shares of their minor children.

Letters of guardianship, to be issued by the judge of the district court of the district wherein the minor resides, will be required in cases where both parents are dead, in cases where the head of the family claims the shares due the children of his wife by a former husband, and in all other cases where the persons entitled are incompetent to receive and receipt for their own shares.

In all cases of minors or other incompetents not having regularly appointed guardians, you will deposit all moneys due such to the credit of the United States, to be held for them until such time as such guardians may be appointed, or, in the case of minors, until they attain their majority, making note in all such cases upon the roll.

Under no condition will you recognize a power of attorney.

All payments are to be made by check, payable to the order of the freedmen entitled, which must be placed directly in their hands.

You are not allowed to make arrangements to favor, even in the slightest degree, any trader, merchant, or other creditor, and neither

they, their representatives, nor any creditor of any description can be allowed in the immediate vicinity of the building in which the payment is to be made while the payment is in progress.

In making this payment you are authorized to go to Fort Gibson, Ind. T., and to proceed at once, upon receipt of notification of the funds being placed to your credit, to make payment.

You will be allowed to rent a room for office for so long as you may actually require it, at as low a rate as you can obtain it.

You will be allowed to employ two clerks and one interpreter, at \$3 a day each, and a messenger at \$2.50 a day. Their services should be reported as irregular employees on the usual blank.

You will observe that in some cases the age and sex of the freedmen have been omitted. These must be supplied by you before making payment. The age and sex are especially essential, to the end that you may be enabled to determine their right to receive and receipt.

You will find noted in several places on the roll, opposite certain names, the words "Don't pay." These names are absolute duplicates of other names on the rolls, reference to which being made in the column of remarks, and you will in no case make a duplicate payment. You will also find opposite certain names a cross mark, indicative of their being duplicate also. You will take special care to ascertain whether they are duplicates or not. If found to be duplicates of other names on the roll, you will note such fact on your roll.

You must carefully avoid duplicate payments, and as well payment to those representing persons who died prior to May 4, 1894.

You are directed to use so much of the funds sent you to make this payment as may be necessary in paying the expenses incurred in connection therewith.

In case of claimants living at a distance from Fort Gibson, it would be well for you to deposit all such shares to the credit of the United States, making due note on these said rolls, and notify said claimants of your action and direct them to make application for payment through this office.

Should it be necessary for you to go to any other point to enable you to complete this payment, you will wire this office, when the matter will be taken under advisement.

You will be careful to make good and clear notes on the pay roll, explaining any matter that is unusual, such as—

Reason for wife signing in place of husband for family shares.

Reason for paying the husband his share and the wife her own share and those of her children.

Reason for retaining the share of any incompetent person, or minor, or any other reason why you should not pay.

Number of certificate of guardianship.

The first installment will be sent you this day, and as soon as you shall exhaust this sum you will notify this office by wire, when another installment of \$100,000 will be sent you, and as soon as it is exhausted similarly notify this office, when the last installment, \$62,359.87, will be sent you, thus enabling you to complete the payment.

Upon completion of payment render account at once.

Respectfully,

THOS. P. SMITH,
Acting Commissioner.

DEW M. WISDOM,
United States Indian Agent, Union Agency, Ind. T.