

Transcript of 1827 August 9: E.W. DuVal, Cherokee Indian Agent, to Governor Izard, Official report, L.C. Gulley collection, Arkansas State Archives, Little Rock, Arkansas.

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Cherokee Agency, Arkansas,
Augt. 9th. 1827.

Sir,
Yours, of the 26th ultimo, by Col:
Brearly came duly to hand.

A difference between the amount of money brought by him and the amount which, in your letter, you state to have been placed in his hands and which he receipted for, renders it necessary, for him to return. He represents that he received 950\$ in specie and 3050, as he supposed at that time in notes, contained in sealed packets, numbered from 1 to 7 inclusively. The superscription on each packet, excepting No. 2, purported to state the amount within and the denomination of the [illegible] constituting it. The last mentioned particular was omitted in the superscription on No. 2. It was endorsed as containing \$450- the Seal of it was broken, as those of the other packets were by Col Brearly in the presence of myself & a third person: the notes within were immediately & successively counted by each of us: they consisted 50 of 5\$ and five of 10\$ each, making together 300, and showing a deficit of 150\$. For this deficit or an alteration of the receipts given by him, Col. Brearly returns.

One of the recs given to you by him, that for \$1000, is not in conformity with my letter to you of the 20th, on the authority of which it was paid. It embraces, specifically, 750\$ or an half years salary for me.
Having

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Having made other arrangements for the receipt of my salary, I cannot recognize this sum as on that account, but shall apply it to contingent objects, and so charge myself with it in my accounts.

It would appear to have escaped Your observation that in on of the "far distant dispatches" which you have lately had from me "by special messengers" something is said in "relation to accounts"- In my letter of the 4th Ult., transmitted by Mr. Perron (the only "special messenger", employed by me for the purpose of carrying dispatches, or letters to you) I assigned what I hoped would be a satisfactory reason for not transmitting the accounts alluded to by herin: I went further and said what we should receive the whole that were then due by a certain mail, and it has been a source of unfeigned concern to me that for the want of some important receipts which I had to obtain from persons living at a considerable distance from me, it was not in my power to fulfil my then confident expectation.

Without naming a given day upon which they shall be handed to you, I will venture to promise that you shall not be longer without them than I am necessarily occupied in collecting the outstanding bills appertaining to them. In the mean time I trust no inconvenience will be experienced by the want of them, as I presume the annual statement, or return relative to Indian affairs, will not be made from your

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your office before the end of what is termed the Treasury year. By advertising to that period, however, it is not to be inferred

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that I intend, or anticipate, delaying my accounts 'til then.

You remark that I "have taken no notice of your application respecting the claim of Tindall, or what you wrote to me on the 5th of June", and that therefore you "think it proper to retain a part of the annuity destined for the Cherokees, 'till that matter and some other demands are duly settled"- Permit me to say that no such letter has been received, nor until your last was perused, heard of by me. You will oblige me by sending me a copy of it, if what I have said touching that claim in my letter of the 18th of Octr. last; a transcript of which is enclosed, should not be satisfactory. Yours of the 10th of Octr, to which menefest mentioned was an answer, is the only communication I have had from you, except that I am replying to, in which Mr. Tindall has been named, or even alluded to, so far as I could understand. If by the terms "duly settled" it be understood to convey the idea that a part of the money which you have retained is to be applied to the payment of Tindall's claim, in default of its payment here by me, it matters not, as it regards the rights and interests of the Cherokees, how soon, you do apply it, for it would only be when I should have become insensible to shame & deaf to the voice of a monitor whose dictates have

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have heretofore been implicitly followed that I could, without better evidence than has been adduced, consent to pay it. It is certainly possable that I may be in error respecting it: if it be so th accept, why not allow the claim to take the course which long established usage and the

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regulations (with which I am acquainted) of the War Department would give it Why not let it be sent there (to the Department) with the testimony pro & con together with my opinion? If a different course has been authorised by law, or by instruction from the Department, I should be pleased to know it. Whether it be sanctioned by competent authority, or not, a very different course, since your Superintendence has been taken. If it be objected by me to a claim that the evidence offered in support of it is insufficient, the claimant or his attorney, waives his right to appeal to the War Department and demands his papers. Some of them have declared their motive for it, and told me that they were going to the Governor with them_ that he was not so particular as to testimony as I was. The claims of the Missers. Weleys, which you have informed me were handed to you while Col. Brearley was present, when last down, have afforded an example (the latest I have heard of) of this practice. Mr. Parrott told me, when he signified his interest of withdrawing them,

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them, why he would do so. I had proffer'd to send them to the Department and he had agreed to it, but subsequently changed his mind and declined letting them go, preferring submitting them to you. One of the positive & invariable effects of this practice has been, I must continue to be to render the Agent odious not only to the claimants & their immediate & connections but to many other well meaning Citizens. It may, to be sure, beget for the Superintendent a puny &

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epphemeral popularity, which, it must be confessed, will be dearly enough bought when jeopardising the personal safety of the Agent and visiting a hateful injustice on the Indians must be the common price of it. This may sound a little like fiction to those residing only at the distance of Little Rock from the scene, but I could satisfy the most sceptical that I have more than once, been threatened by some of the same kind of men that are now running to you with complaints against me, with personal outrage & flagitious abuse for extending protection to the indubitable rights of Red people. On such occasions I am not unfrequently upbraided with fact that the Governor has overruled my decisions and determined to pay claims which I had previously rejected altogether or suspended for further proof. Not only that he has overuled & reversed them, but that he did so upon

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upon exparte testimony, not deigning to call for the evidence on the other side, nor to hear the reasons inducing the opinions expressed by me, thereby manifesting reportative couternfite both for my judgement & feelings. Might I not ask in sober seriousness, whether there is not too much truth in this? Do not the claims of Wharton & Tindall present signal exemplifications of it? You heard I suppose, the narrative I read the affidavits presented by the ones and read the petition of the other, and at one not only decided on the payment pf their respective demands, but made therin & others, of which I knew nothing, the bases of a denunciation against me as the primative Parent of an

iniquitous tribunal for adjudicating the claims of our Citizens, and as a proper object of arraignment on charges with the fruitly stain of which (measuring their enormity by the manner of your proclaiming them) none but an undoubted malefactor under the benevolent maxims of our laws, should have been supposed to be blemished- For the verity of this, so far as it respects the character of the denunciation, I appeal to your letter, now before me, of the 10th of Octr_ last_ Not a solitary inquiry, verbal or written, had been directly, or indirectly addressed to me by

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by you, relative to those claims when that letter was received. None of the evidence or circumstances, advent to the claim of Tindall was before you, and yet you determined to have it paid. With regard to the demand of Mr Wharton, I have never done your judgment so much injustice as to suppose you acquainted with its merits, altho' the files of your office should have informed you of them, not outstanding the prayer of the petitioner was granted by you- To this demand & petition allow me to me to draw your attention. He was recently here and his claim became a topic of conversation. I asked him how he could have treated me so unrighteously as to have complained to to the Governor, and solicited his interference on the ground that "repeated applications to me produced no effect" _ I reframed & stated to him, verbatim, the allegation as set forth in your letter to me on the subject: and what would you suppose, Sir, to have been his answer? I will put it to you in his own language. He promptly & with

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no little emphasis replied- "if he (the Governor) has stated that, he is a God damned Liar- I never told him that I had made repeated applications to you without effect, but that I had a claim for loans made &c and wished his advice how I would get it paid" _ It is not I assume, Sir, with any feelings derogatory to, or inconsistent with official respect for you that I have introduced, contradiction by

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by the petitioner himself, of your statement relative to his claim, nor from distrust or suspicion of that statement being anything but as accurate exhibit of the contents of the petition, but for the purpose of giving you, in at least one one instance, a specimen and antecessor of the practitude and benevolenc of many of those whose complaints against me have reached and will reach you- That whatever you may think of Mr. Wharton's requital for your interpretation in his case, I verily believe that I shall do him nothing more than justice in saying that he is incomparably a better Citizen than three four [illegible] of those claims against & collisous with the Indians requiring the exercise of my functions as the Agent of the Govt. Many of them are known to be fugatives From justice- notorious born thieves, Reputed murders & convicted felons- Renegades from the Society in which they Were raised, and outcasts from every other, Where law & order prevail, which they have presumed to enter_ That there are some honest mens, who have claims, well & illfounded, against the Cherokees and other Indians, I am sure, but the great mass of those whose clamors serve

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to give strength & coloring to the quarelous language which too often escapes the well meaning but disappointed claimant counts

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counts of creatures so abandoned in habit and polifigate in principle as to the levelled and in common, by their vices, with the lowest dregs from the receptacles & common servers of depravity. I am not singular Sir, in this opinion: it is I believe in strict unison with that of my predecessors. That my official conduct has given some uneasiness to several bands of those confederated outlaws_ that it has created impediments to the convenient exercise & successful issue of many of their illicit schemes and wanton devices, I will know and hold abundant proof of, but that it has on any occasion, been characterised by a disposition to observe useless precautions, or raise up vexatious difficulties to obstruct or prevent, the payment of just claims, or to the free & fair investigation and final settlement of claims of every description, I utterly deny; and no man except an alien to the truth & honor, can say that I have, in any case, failed to tender every facility, with which I am acquainted, to claimants whom I have decided against. I have uniformly offered to transmit, according to instructions the evidences of their claims to the War Dept._ where my judgement, if erroneous would be reversed: and is it not a most remarkable & singular fact, if I am the cause of so much injustice as has been imparted to me in these matters, that numerous

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numerous as the suspended & rejected claims have been and confident and importunate as the claimants were, or affected to be that they ought to, and must be paid, not exceeding three or four have ever consented to submit them in the mode prescribed to the Secretary of War, and why not? Do you doubt Sir, that each of them could give a ready and conclusive answer to this question? I do not. I admit to be sure, that it may be not only unnecessary, but improper, to send them there if any late law, or new regulation has designated an intermediate tribunal or authority to which appeals are to be made, and I respectfully intreat you Sir, with all the earnestness of an anxious desire fully to acquit myself in the discharge of my duties to inform me whether such late law, or new regulation exists, and if so, what are the provisions of it. I should not put you to the trouble of noticing such a request if I could perceive in your in your superintending prerogative a right to admit & pay. with the funds of the Cherokees, of white men which have been examined and rejected or suspended here;_ nor if I had not been aproved by some who have greater experience in the management of Indian affairs than I have, that the cases of which you have taken cognizance are the first in which they have ever heard of a superintendent's determining to

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to exercise such a right. Independent of the information thus obtained and that derivable from the files & documents in this office, it would appear to me *ex natura rei* [from the nature of the matter]

that the course heretofore prescribed is the fair & proper one. If an agent with the palpable advantages of examining all the testimony offered by both parties_ often times of interrogating, which under oath, each & every of the witnesses, and of observing the particular manner in which they respectively give their testimony; of marking & ascertaining, by enquiry at the time, their characters & relative credibility; of having plaintiff & defendant (for in that light the claimant & tribe may be received) both present, confronting & cross-examining, if they please, the witness or witnesses, who may be sworn, thereby electing every circumstance, and hearing all the minutia appertaining to the case which could then better enable one to make up an opinion; if I say, with all these advantages he is not more competent to form & pronounce a correct judgement than a superintendent, living & being distant from the scene, and hearing but one side of the question, can possibly be, he must be a stupid dolt, unfit for any office, unless indeed the superintendent gifted with that superhuman wisdom which dispensing with the facts & means requisite to produce conviction in such as depend upon the dull & labored processes of reason, lead to truth & justice by intuitions. In

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In perfect sincerity I beg pardon for the length & tediousness of this letter. I had no idea of writing a title of what is said when I began it. But I am not yet done. Let me return to Mr Wharton's late writ to me. After what I have stated as having taken place between us, I proceeded & asked him whether I did not, the only time he ever called on me respecting his claim, offer

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to pay he in the difference between it and the amount stated to be due from him to the United States, as exhibited by the Books of the old Territory establishment, and if he did not object to receiving it? Whether I did not, moreover gratuitously tender him my services to aid in the recovery (if recoverable) of his claim against the Territory for work alleged to have been and performed by him for the late Factor? To each of these questions he unhesitatingly gave an affirmative answer. I then again offered to settle with and pay him the difference between the two accounts, and he again refused to accept it. This interview & conversation with Mr. Wharton, occurred in the presence of others, among whom were the subagent and Interpreter, and I beg leave to refer you to them, if my accuracy should be deemed in the least questionable.

*see page 6 of my letter of the 18th of Octr. last O. the now payment of that claim was the pretext for declining payment of his Factory debt.

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I have been told and am willing to name my authority that Mr Tindall, too, has denied making the statement imputed to him in your letter of the 10th of October to me. I advert to this hearsay for the same reason I mentioned to the unqualified denial of Mr Wharton_ They may in some measure a tendency to induce a belief with you that it would be quite as well to permit the claim of our Citizens arising out of alleged spoliations of their property by red people to continue in the usual channel: When presented here, if payment be refused, let the, if the claimants intend a further prosecution to their demands, be transmitted

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to the War Department, with all the evidences & statements adduced by the parties, accompanied by the opinion of the Agent. No objection can reasonably be made to this on the score of its delay of justice. Let those who would make it remember where a poor Indian loses his property, by a White man, that he has no alternative but to seek redress by referring his claim there, or to obtain it by protracted litigation in a Court of Judicature.

You remark in your last letter that mine "of the 21st of octr is on file, but has no relation to the subject too often mentioned in your late correspondence with me". I must presume this to be one of the same subjects which you have stated you sent to me about "last autumn" and which in my letter to you of the 29th of

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of June and again on that of the 4th ultimo. I respectfully suggested my readiness to notice if you would oblige me by naming them. I am unconscious of your having since done so and am therefore, left to deprecate a lamentable dullness of comprehension in myself, or an undefinable obscurity in your allusions which baffels the most unaffected desire to comply with your wishes. Allow me for, in the spirit of grateful feeling toward those who have honored me with a portion of their confidence, and of that devotion to the service expected from me, which I have invariably endeavored to manifest & make effectual, to beg that you will inform me what those objects are.

In another part, or sentence of your letter you observe that "you regret that my engagement did not permit me to correct some errors into which you would appear to have been led, by my last messenges" &c. It would not have been supposed that I could fail to see the ironical vein in which the expression of this request was conceived and written, and if I decline, as, in such cases, I certainly shall, opposing like to to like, it will be not so much from a sense of my inability to wield a similar weapon, as from a conviction that it could lead to no possible good and might contribute to a state of things, the production of

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of which my duty as a public servant, enjoins me not to participate it_ with respect to the errors referred to, however I did not intimate that you were led into the "by my last messenges", but by Mr. Bernard Smith, whom you have named as your informant. They were of no great moment, but as they were errors of fact, it was deemed proper to notice them_ The correction intended by me was in substance, to say that I never addressed nor said that I had addressed a letter "to you in Philadelphia" in answer to yours of the 10th of Octr. last to me; nor did I ever "show", in the common acceptation of the term, a letter at Little Rock, purporting to be an answer to yours of that date_ The only answer written to it by me was addressed to you at the Rock, and dropped into the Post office there, on the 5th or 6th of Novr., by Mr Geo. Carter. When there in Decr. last, I read a

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copy of it to Mr B Smith (in the presence I believe, of Mrs S) and also to Mr Woodruff, and Cols Ashley & Sevier_ Whether it be “an angry reply” to your “hints”, you will on the receipt of the transcript herewith, be able to judge_ I will only say of it, that altho’ written under excitement, it was not written in anger, nor is there a sentence, or any part of it, that I would now, in my

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my most deliberate moments, retract, or alter, with a view of moderating its tone.

Your intention not to “enter into an epistolary controversy with any person holding an official situation whom your public duties may bring you into collision with”, if united with a determination not to withhold in your intercourse with them, what official conuty everywhere and to everyone would accord, would be entitled to all praise and should receive from me an undissembled homage, but when the latter consideration is disregarded, and foul impectations cast when they are underserved, passive submission to them could not be expected by or from any one who felt and appreciated the rights of a freeman; for that condition must be severile & degraded, indeed, which would deny to me the privilege of repelling insinuations & charges from any quarter were deemed “very injurious to my character & honor”. For the presents, I will no further extend these remarks_ Annexed you have a list of the persons employed at their agency &c

I have the honor
to be, Sir yr. obdt. Servt.
(Signed) E W duVal.

Genl Geo. Izard
Govr Ter

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List refd to above

E.W duVal, sr. S.Agt. for Court in Maryland, yearly comp. \$1500

Pearson Bearley sub agt. N Jersey, yearly comp. 500

Jas. Rogers_ Interpreter_ Tennesse, yearly comp. 400

Augt. 30th 1827.

I detained Col. Brearley, untill
the arrival of the mail, the second time, since
the money error accured, in hopes that
you would have discover'd and rectified
it, and saved him the trouble & expense
of returning to the Rock, but as that has
not happened he will now start down-
EWd-