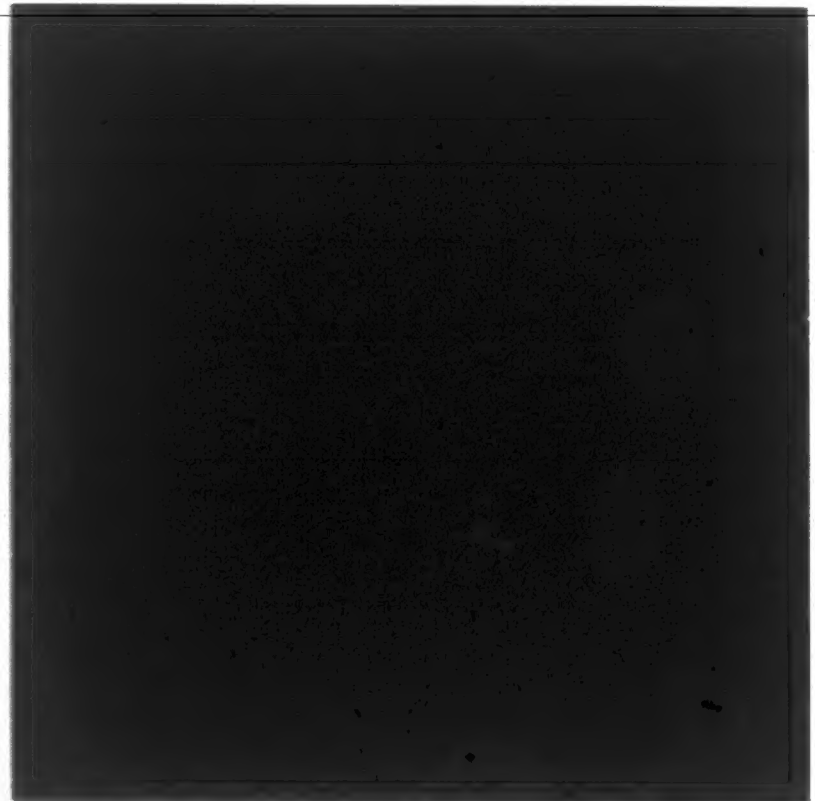
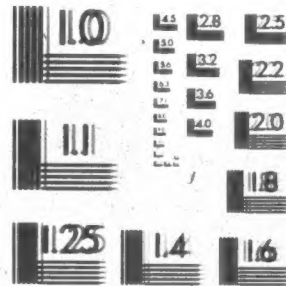
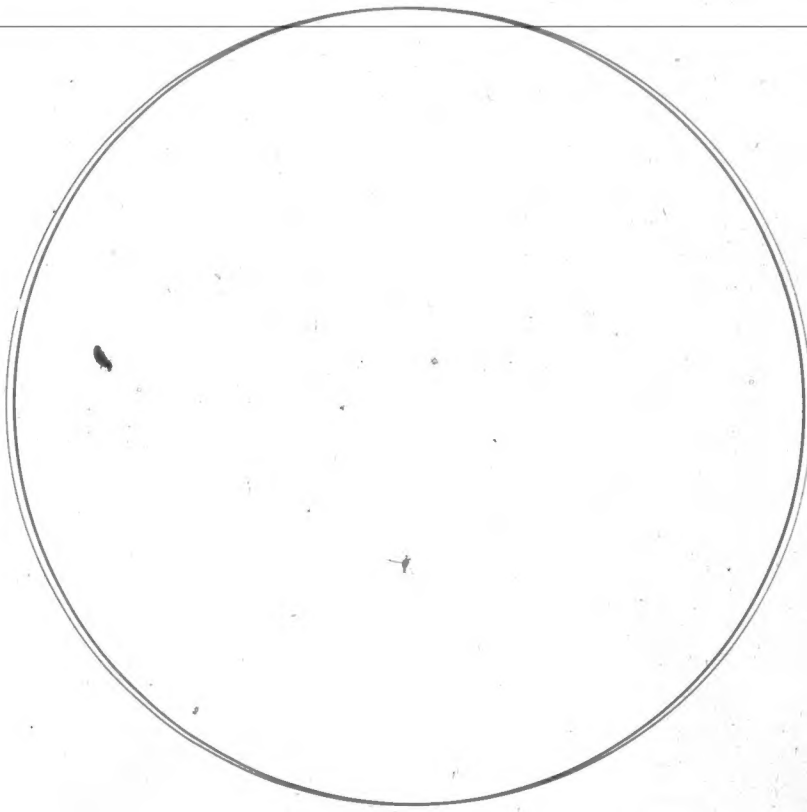
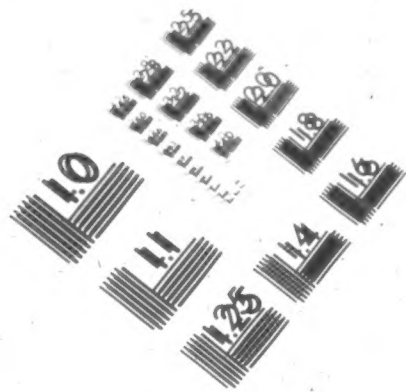
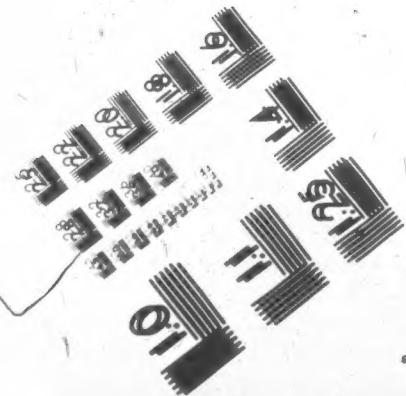




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APPLICATIONS FOR ENROLLMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

1898 - 1914

ROLL 16

MISSISSIPPI GOVERNOR'S NEG. 7433 - 7446

**THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION**

WASHINGTON: 1963

Choctaw MGR 7433

Betsey John

MGR 7433

S

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application for the identification of
Betsy John as a Mississippi Choctaw.

-oOo-

Herein is the record in the matter of the application for
the identification of Betsy John as a Mississippi
Choctaw, M.C.R. 7433.

-oOo-

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application for the identification of
Betsey John as a Mississippi Choctaw, M.C.R. 7433.

--: I N D E X :--

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Decision of the Commission identifying Betsey John as a Mississippi Choctaw-----	3

-oOo-

7433

full

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
Dixon, Mississippi, March 25, 1903.

In the matter of the application for the identification of
Betsey John ~~xxx~~ as a Mississippi Choctaw.

Isaac Lewis, being first duly sworn through official inter-
preter Ike Moses, testified as follows:

Examination by the Commission.

- Q What is your name? A Isaac Lewis.
- Q What is your age? A About eighty.
- Q What is your postoffice address? A Dixon.
- Q Do you want to give any testimony in regard to a Choctaw Indian woman named Betsey John? A Yes.
- Q Has she ever made application to the Commission to the Five Civilized Tribes to be identified as a Mississippi Choctaw? A No.
- Q Have you ever talked with her in regard to her making an application? A No sir.
- Q Have you ever heard her refuse to make an application? A No sir.
- Q You know, though, that she has not made an application, do you? A Yes sir.
- Q How old is she? A I don't know--she's about seventy.
- Q What is her postoffice address? A Dixon.
- Q Is she a full blood Choctaw? A Yes.
- Q She is the same person that is given as the mother of Tom Farmer in the preceding application? A Yes sir.
- Q Does she live with Tom Farmer? A Yes sir.
- Q What is her father's name--Betsey's father's name? A I don't know, never have seen him.
- Q Do you know whether or not her father was a full blood? A I don't know.
- Q Did you ever hear whether her father was a full blood? A Yes, I heard he was a full blood.
- Q Is he dead? A Yes.
- Q How long has he been dead? A Dead long time.
- Q About how old was he when he died, do you know? A I don't know.
- Q Do you know the name of Betsey John's mother? A Beckey.
- Q Did she have any other name besides Beckey? A I don't know.
- Q Is she living? A She's dead.
- Q How long has she been dead? A She been dead about twelve or thirteen years.
- Q Do you know about how old she was when she died? A I don't know.
- Q How much Choctaw blood did Beckey have? A Full blood.
- Q Do you know the names of Beckey's parents? A No, I don't know.
- Q So, Betsey John claims to be a full blood and to derive her Choctaw blood through both her father and mother? A Yes.
- Q Is Betsey John married at this time? A No sir.
- Q How many times has she been married? A Twice.
- Q What was the name of her first husband? A Ah-oh-le-ah.
- Q Is he living? A I don't know.
- Q Did Betsey separate from Ah-oh-le-ah? A Yes.
- Q When did they separate? A I don't know.
- Q Was he living in this country when they last heard of him? A He been living here and went off.

Betsey John-2

- Q Where did he go? A Yazoo Bottoms.
Q You don't know whether he's living or not? A No, I don't know.
Q Never heard that he had died? A No sir.
Q And haven't seen him since he left here? A No sir.
Q What is the name of Betsey's second husband? A Chu-na-sha--that was her second husband.
Q Is he living? A Dead.
Q When did he die? A About eight years.
Q How old was he when he died? A Over forty.
Q He was a full blood Choctaw, was he? A Yes.
Q Was her first husband a full blood Choctaw? A Yes sir, full blood.
Q Chu-na-sha, was he sometimes known by a different name? A Yes, that's his Choctaw name.
Q What was his English name? A Blind John--he went blind--just call him Blind John.
Q Betsey now goes by the name of Betsey John? A Yes.
Q In Choctaw her name would be Betsey Chu-na-sha? A Yes.
Q When you say that Betsey has no children now do you mean she has no minor children? A She had one child but she died.
Q Tom Farmer was a child of Betsey? A Yes, that was by her first husband.
Q You mean she has no children by her second husband? A She had one but it died.
Q What was the name of that child? A Emily.
Q How long has Emily been dead? A About five or six years.
Q Was Emily ever married? A No sir.
Q Does Betsey speak the Choctaw language? A Yes.
Q Can she speak English? A Not to amount to anything.
Q She has all the appearance of being a full blood Choctaw Indian, has she? A Yes.
Q Is that all you know in regard to her Choctaw ancestry or in regard to her family? A Yes.

Ira S. Niles, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause, heard at Dixon, Mississippi, March 25, 1903, and that the above and foregoing is a full, true and correct transcript of his stenographic notes taken in said proceedings on said date.



Subscribed and sworn to before me this 25th day of April, 1903.

Charles H. Sawyer
Notary Public.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVECIVILIZED TRIBES.

-oOo-

In the matter of the application for the identification of
Betsey John as a Mississippi Choctaw, M.C.R. 7433.

---: D E C I S I O N :---

It appears from the record herein that an application for
identification as a Mississippi Choctaw was made to this Commission
on March 25, 1903, by Isaac Lewis, for Betsey John, under the fol-
lowing provision of the act of Congress approved June 28, 1898 (30
Stats., 495):

"Said Commission shall have authority to determine the
identity of Choctaw Indians claiming rights in the Choctaw
lands under article fourteen of the treaty between the United
States and the Choctaw Nation, concluded September twenty-
seventh, eighteen hundred and thirty, and to that end may ad-
minister oaths, examine witnesses, and perform all other acts
necessary thereto and make report to the Secretary of the In-
terior."

From the evidence submitted in support of said application
it appears that Betsey John is a full-blood Mississippi Choctaw
Indian.

Section forty-one of the act of Congress entitled "An Act


(2)

to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," approved July 1, 1902, (32 Stats., 641), and ratified by the Choctaw and Chickasaw Nations September 25, 1902, provides as follows:

"The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement and in the disposition of such applications all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi Choctaw Indians whether of full or mixed blood who received a patent to land under the said fourteenth article of the said treaty of eighteen hundred and thirty who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June twenty-eighth, eighteen hundred and ninety-eight, shall be deemed to be Mississippi Choctaws, entitled to benefits under article fourteen of the said treaty of September twenty-seventh, eighteen hundred and thirty, and to identification as such by said Commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood, or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the right of citizenship in the Choctaw Nation, all of said Mississippi Choctaws so enrolled by said Commission shall be upon a separate roll."

It is therefore the opinion of this Commission that Betsey John should be identified as a Mississippi Choctaw, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


Chairman.


Commissioner.


Commissioner.

Commissioner.

Muskogee, Indian Territory,

MAY 20 1904

COPY.

M. O. B. 7433

Muskogee, Indian Territory, May 20, 1904.

Betsy John,
Dixie, Mississippi.

Dear Madam:

Enclosed herewith you will find a copy of the decision of the Commission to the Five Civilized Tribes, rendered May 20, 1904, identifying you as a Mississippi Choctaw, under the provisions of Section 41 of the Act of Congress approved July 1, 1902, (32 Stats., 641).

Under the provisions of the law above cited, in order to avail yourself of the benefits of such identification, you must remove to and make settlement in the Choctaw- Chickasaw country, Indian Territory, on or before November 20, 1904, and must make proof of such removal and settlement on or before May 20, 1905, at the office of the Commission at Atoka, Choctaw Nation, or Fishamingo, Chickasaw Nation, Indian Territory.

Respectfully,

Yours truly,

F. B. Needles

Commissioner in Charge.

Registered,
May 20, 1904.

M.C.R. 7433

COPY!

Muskogee, Indian Territory, May 20, 1904.

Isaac Lewis,

Dixon, Mississippi.

Dear Sir:

You are hereby advised that the Commission to the Five Civilized Tribes, on May 20, 1904, rendered its decision identifying Betsey John as a Mississippi Choctaw, under the provisions of Section 41 of the Act of Congress approved July 1, 1902, (32 Stat., 641).

Under the provisions of the law above cited, in order for the person so identified to avail herself of the benefits of such identification, she must remove to and make settlement in the Choctaw-Chickasaw country, Indian Territory, on or before November 20, 1904, and must make proof of such removal and settlement on or before May 20, 1905, at the office of the Commission at Atoka, Choctaw Nation, or Fishomingo, Chickasaw Nation, Indian Territory.

Respectfully,

ERNEST

T. B. Needles

Commissioner in Charge

COPY,

M.O.R. 7435

Muskogee, Indian Territory, May 20, 1904.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Enclosed herewith you will find a copy of the decision of the Commission, rendered May 20, 1904, identifying Betsey John as a Mississippi Choctaw, under the provisions of Section 41 of the act of Congress approved July 1, 1903, (38 Stat., 641).

You are hereby advised that you will be allowed fifteen days from the date hereof within which to file with this Commission such protest as you desire to make against the action of the Commission in identifying said Betsey John as a Mississippi Choctaw, and make satisfactory proof of service of protest upon the applicant herein. If you fail to file protest within the time allowed, her name will be placed upon the schedule of duly identified Mississippi Choctaws now being prepared by this Commission.

Respectfully,

Yours truly,

T. B. Needles,

Commissioner in Charge.

Registered,
No. 1, M.O.R. 7435.

MERIDIAN, MISSISSIPPI, September 30, 1903.

Betsy John,
Dixon, Mississippi.

Dear Madam:-

It appears from the records of the Commission that on March 25, 1903, application was made for the identification of yourself and family as Mississippi Choctaws.

I now have these records in my possession, and in order that a decision in your case may be rendered by the Commission, it will be necessary for you to personally appear before the Commission at Meridian, Mississippi, at the earliest practicable date, and testify relative to your rights to identification as Mississippi Choctaws.

Under the present law all persons who may be identified by the Dawes Commission as Mississippi Choctaws will be entitled to participate in the distribution of the tribal property of the Choctaws and Chickasaws, and may, at any time within six months after the date of their identification, remove to and make bona fide settlement in the Coctaw-Chickasaw country, Indian Territory.

Please write me at once, stating whether or not you desire to give testimony in your case, and if so when you will come to Meridian for that purpose. You will find me at the Federal Building between the hours of 8 A. M. and 6 P. M.

Very respectfully,

Special Agent.

File No. 72-2 G R 1433.

Meridian, Mississippi, November 27, 1903.

Betsy John,

Dixon, Mississippi.

Dear Madam-

Under date of September 30, 1903, the following letter was written to you:

It appears from the records of the Commission that on March 25, 1902, application was made for the identification of yourself and family as Mississippi Choctaws.

I now have these records in my possession, and in order that a decision in your case may be rendered by the Commission, it will be necessary for you to personally appear before the Commission at Meridian, Mississippi, at the earliest practicable date, and testify relative to your rights to identification as Mississippi Choctaws.

Under the present law, all persons who may be identified by the Dawes Commission as Mississippi Choctaws will be entitled to participate in the distribution of the tribal property of the Choctaws and Chickasaws, and may, at any time within six months after the date of their identification, remove to and make bona fide settlement in the Choctaw-Chickasaw country, Indian Territory.

Please write me at once, stating whether or not you desire to give testimony in your case, and if so when you will come to Meridian for that purpose. You will find me at the Federal Building between the hours of 8 a.m. and 6 p.m.

If you wish to give further testimony in support of your claim, it will be necessary for you to appear before the Commission at Meridian, Mississippi, as indicated in the above quoted letter, at the earliest practicable date.

Very respectfully,

File 70.

Special Agent.

MISSISSIPPI CHOCTAW IDENTIFIED

May 20, 1904,

Copies of decisions mailed Mansfield, McMurray & Cornish, attorneys
for Choctaw and Chickasaw Nations:

M.C.N. 4871 Dick Funder et al.,

4874 Buddy Stribling et al.,

4875 John Sims et al.,

4912 Long Thomas (Hickabbee) et al.,

4951 Chatman Thompson et al.,

5007 Yealey Billey et al.,

5113 Asa Elson Bull et al.,

5114 Sadie Cotton et al.,

5115 Allen Ellis et al.,

5116 Enoch Ellis,

5156 Wash Bell et al.,

5159 Albert Isom et al.,

5169 Griffin Amos et al.,

5173 Tom Kate et al.,

5179 Jesse Thomas,

5190 Simon Charlie,

5206 Rena Vaughn,

7433 Betsy John.

Register to

Mansfield, McMurray & Cornish,

South McAlester, Indian Territory,
(All in one package)

and return to M.C.N. 7433.

7433

M.C.R. 7433

COPY.

Muskogee, Indian Territory, May 20, 1904.

Betsy John,

Dixon, Mississippi.

Dear Madam:

Enclosed herewith you will find a copy of the decision of the Commission to the Five Civilized Tribes, rendered May 20, 1904, identifying you as a Mississippi Choctaw, under the provisions of Section 41 of the Act of Congress approved July 1, 1902, (32 Stat., 641).

Under the provisions of the law above cited, in order to avail yourself of the benefits of such identification, you must remove to and make settlement in the Choctaw-Chickasaw country, Indian Territory, on or before November 20, 1904, and must make proof of such removal and settlement on or before May 20, 1905, at the office of the Commission at Atoka, Choctaw Nation, or Tishomingo, Chickasaw Nation, Indian Territory.

Respectfully,

SIGNED

T. B. Needles.

Commissioner in Charge.

Registered.
Enc.: MCR7433.

COPY.

Muskogee, Indian Territory, May 20, 1904.

Isaac Lewis,

Dixon, Mississippi.

Dear Sir:

You are hereby advised that the Commission to the Five Civilized Tribes, on May 20, 1904, rendered its decision identifying Betsey John as a Mississippi Choctaw, under the provisions of Section 41 of the Act of Congress approved July 1, 1902, (32 Stat., 641).

Under the provisions of the law above cited, in order for the person so identified to avail herself of the benefits of such identification, she must remove to and make settlement in the Choctaw-Chickasaw country, Indian Territory, on or before November 20, 1904, and must make proof of such removal and settlement on or before May 20, 1905, at the office of the Commission at Atoka, Choctaw Nation, or Fishbasingo, Chickasaw Nation, Indian Territory.

Respectfully,

(SIGNED)

T. B. Needles.

Commissioner in Charge.

COPY. M.O.R. 7433

Muskogee, Indian Territory, May 20, 1904.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Enclosed herewith you will find a copy of the decision of the Commission, rendered May 20, 1904, identifying Betsey John as a Mississippi Choctaw, under the provisions of Section 41 of the act of Congress approved July 1, 1902, (32 Stats., 641).

You are hereby advised that you will be allowed fifteen days from the date hereof within which to file with this Commission such protest as you desire to make against the action of the Commission in identifying said Betsey John as a Mississippi Choctaw, and make satisfactory proof of service of protest upon the applicant herein. If you fail to file protest within the time allowed, her name will be placed upon the schedule of duly identified Mississippi Choctaws now being prepared by this Commission.

Respectfully,

(SIGNED)

T. B. Needles.

Commissioner in Charge.

Registered.
Enc.: MCH-7433.

No. 7433

FOR IDENTIFICATION AS A MISSISSIPPI CHOCTAW.

Date March 25th 1903

Name Betsy John.

Age 70 Blood full

Post Office, Nixon Miss.

Father: dont know. d. f.

Mother: Beckey d. f.

Claims through J. M.

1st husband: ah-che - 3 tah f.

2nd husband Chu-na-sha d. f.

Blind John english name of
2nd husband.

Children:

Information furnished
by Isaac Lewis
through Ike Moses
interpreter

Stenographer J. S. Niles.

MIS
1904
MAY
DIXON

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FREE CIVILIZED TRIBES.
FILED
JUN 28 1904

— GARDNER

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOCOE, IND. TER.

Reg No 18



*File No
Commission*

Commission

Commission

Choctaw MCR 7434

Jim Post - Oak

MCR 7434

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application of Jim Post-Sak, et al.,
for identification as Mississippi Choctaws.

-oOo-

Herein is the record in the matter of the application of
Jim Post-oak, et al., for identification as Mississippi
Choctaws, M. C. R. 7434.

-oOo-

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application of Jim Post-oak, et al.,
for identification as Mississippi Choctaws, M.C.R. 7434.

--: I N D E X :--

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-oOo-

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

The following is a copy of the testimony given by Leanna Maley, at Decatur, Newton County, Mississippi, Tuesday, February 7, 1899, in which she makes application for Jim Poast-oak, his wife Mary, and two minor children, Sister and Brown, as Mississippi Choctaws:

"LEANNA MALEY, the applicant, states: I am 40 years old, and a full blood Choctaw. My husband is dead. I have the following children: Clark, 18; Kelley, 12; Botman, 8; Eunis, 6; and Salie, 4 years old. I want to give in Jim Poast-oak, a full blood Choctaw, about 50 years old. He has a full blood wife named Mary, 30 years old. They have the following children Sister, 3; and Brown, 4 years old."

I, Albert G. McMillan, stenographer for the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and correct copy of the testimony given by Leanna Maley in the application made by her for the identification of herself and others as Mississippi Choctaws.

Albert G. McMillan

Subscribed and sworn to before me this 21st day of January, 1904.

John S. Haber

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Meridian, Mississippi, January 15th., 1904.

In the matter of the application of Jim Postoak for the identification of himself and family as Mississippi Choctaws.

Jim Postoak, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

- Q What is your name? A Jim Postoak.
Q How old are you? A Forty eight.
Q What is your post office address? A Conshatta, Mississippi.
Q Were you born in Mississippi? A Born in Newton County.
Q Lived here all your life? A Yes, except I made trip to the Territory last year and just came back while back.
Q What was your father's name? A John Postoak.
Q Is he living? A No, dead long time.
Q Was he a full blood Choctaw? A Yes.
Q What was your mother's name? A Eliza.
Q Eliza Postoak? A Yes.
Q Is she living? A No, she died too.
Q How long has your mother been dead? A Long time; I was about ten years old when she died.
Q Was your mother a full blood Choctaw? A Yes, full blood.
Q You claim to be a full blood Choctaw? A Yes, full blood.
Q Have either your mother or father ever been recognized in any manner or enrolled as members of the Choctaw tribe of Indians in the Indian Territory by the Choctaw tribal authorities or the authorities of the United States? A I don't know; don't think they ever went there.
Q Are you married? A Yes sir.
Q What is your wife's name? A Mary Postoak.
Q How old is Mary? A About thirty three, I reckon.
Q Is she a full-blood Choctaw? A Yes, full blood.
Q Was she born in Mississippi? A Yes.
Q And lived here all her life? A Yes sir.
Q What was your wife's father's name? A John Willis.
Q Is he living? A No, sir.
Q How long has he been dead? A Don't know, long time.
Q Was he a full blood Choctaw? A Yes, full-blood.
Q What was your wife's mother's name? A Lucy Willis.
Q Is she living? A Yes sir.
Q Where does she live? A Scott County.
Q Does she go by the name of Lucy Willis now? A Yes, I reckon so.
Q Has she ever been before Commission? A Don't know.
Q Is Lucy a full-blood Choctaw? A Yes, full blood.
Q Have either of your wife's parents ever been recognized in any manner or enrolled as members of the Choctaw tribe of Indians in the Indian Territory by the Choctaw tribal authorities or the authorities of the United States? A No, I don't know.
Q Have you any children? A Yes.
Q How many? A Three.
Q What are the names of these children? A Oldest one called Jim Brown.

Jim Postoak-----2

- Q Jim Brown Postoak? A Yes.
Q How old is Jim Brown? A About nine.
Q Did you ever have a child named Sister? A Yes, but she died.
Q When did she die? A About three or four years ago.
Q She died prior to March 25, 1903? A Yes, been dead a 'spect four years.
Q Was Sister older or younger than Jim Brown? A Older.

This applicant is the identical Jim Postoak for whom application for identification as a Mississippi Choctaw was made before Honorable A. S. McKernon, then a member of this Commission, at Decatur, Newton County, Mississippi, on February 7, 1899, by Leanna Maley. Her testimony relative to this applicant and his family was as follows: ".....I want to give in Jim Postoak, a full blood Choctaw, about 50 years old. He has a full blood wife named Mary, 30 years old. They have the following children, Sister, 5; and Brown, 4 years old."

- Q Have you any other living children besides Jim Brown Postoak?
A Yes, two.
Q What are their names? A Oscar, 6, and Lena, most 3 years old.
Q Have you ever made application to the Commission for the identification of these children as Mississippi Choctaws prior to this time? A No.

No application having been made for the identification of your two children, Oscar and Lena, prior to March 25, 1903, the Commission is now without authority to receive or consider any application in their behalf.

- Q This testimony that will be in support of the application for yourself, your wife, Mary, and child, Jim Brown Postoak? A Yes.
Q Is Mary the mother of Jim Brown Postoak? A Yes.
Q And you are the father? A Yes...
Q Then you claim Jim Brown Postoak is a full-blood Choctaw? A Yes.
Q Was any application ever made prior to this time for the identification of yourself and family as Mississippi Choctaws? A My aunt, Leanna Maley, made application for me, and I thought Jehn Hickman, my wife's brother, fix it up two years ago.

The only record of any application on behalf of yourself and family is that made on behalf of yourself, wife and two children, Brown and Sister, at Decatur, Mississippi, in 1899.

- Q Were you or your wife or your child, Jim Brown Postoak ever admitted to citizenship in the Choctaw Nation by the Choctaw tribal authorities or the authorities of the United States? A No.
Q Did you ever make any application for citizenship in the Choctaw Nation? A No.
Q Do you know whether or not any of your ancestors or your wife's ancestors ever received any land from the Government in Mississippi shortly after the treaty of Dancing Rabbit Creek was ratified in 1831? A I don't know.
Q Do you know the names of any of your ancestors or your wife's ancestors farther back than your parents and your wife's parents? A Not that's all I know, they all full-bloods though.
Q Do you know whether or not any of your ancestors or your wife's ancestors ever received any land from the Government which entitled them to select land in Mississippi, Alabama, Louisiana or Arkansas by reason of having complied with a title fourteen of the treaty of 1831? A I don't believe they did.

Jim Post-oak-----3

Q Do you speak and understand the Choctaw language? A Yes, all time.

Q At the time Leanna Maley appeared before the Commission she gave the name of one of your children as Brown---Is that child identical with the child you now give as Jim Brown Post-oak? A Yes, same child; sometimes call him Brown and sometimes Jim Brown.

Q In case you are identified,--yourself, wife and child-- as Mississippi Choctaws entitled to allotments of land in the Choctaw-Chickasaw country, is it your intention to remove to the Indian Territory and maintain a permanent residence there? A Yes, I 'spect I go out there now in few days.

Q If you remove to the Indian Territory prior to the receipt of a decision identifying yourself, wife and child as Mississippi Choctaws, in case such a decision should be rendered, will you notify the Commission at Muskogee, Indian Territory, of the change in your post office address? A Yes sir.

Q Any further statements you wish to make? A No, that's all. This applicant has every appearance and physical characteristic of a full-blood Choctaw Indian. He speaks and understands the Choctaw Language, and also some English, the examination having been conducted in English.

-----6-----
Harry C. Riateen, being first duly sworn, upon his oath states: That as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 15th day of January, 1904, and that the above and foregoing is a full, true and correct transcript of said proceedings on said date.

Harry C. Riateen

Subscribed and sworn to before me this 15 day of January 1904

L. B. Moulton, Clerk

By M. D. Watts, D. C.

009

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application of Jim Post-oak, et al., for identification as Mississippi Choctaws, M.C.R. 7434.

---: D E C I S I O N :---

It appears from the record herein that application for identification as Mississippi Choctaws was made to this Commission on February 7, 1899; by Leanna Maley for Jim Post-oak, his wife, Mary Post-oak, and his two minor children, Sister and Brown (or Jim Brown) Post-oak, under the following provision of the act of Congress approved June 28, 1898 (30 Stats., 495):

"Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation, concluded September twenty-seventh, eighteen hundred and thirty, and to that end may administer oaths, examine witnesses, and perform all other acts necessary thereto and make report to the Secretary of the Interior."

It appears that the applicant, Sister Post-oak, died prior to September 25, 1902.

From the evidence submitted in support of said application it appears that all the applicants are full-blood Mississippi Choctaw Indians.

Section forty-one of the act of Congress entitled "An Act

(2)

to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," approved July 1, 1902, (32 Stats., 641), and ratified by the Choctaw and Chickasaw Nations September 25, 1902, provides as follows:

"The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement, and in the disposition of such applications all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi Choctaw Indians whether of full or mixed blood who received a patent to land under the said fourteenth article of the said treaty of eighteen hundred and thirty who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June twenty-eighth, eighteen hundred and ninety-eight, shall be deemed to be Mississippi Choctaws, entitled to benefits under article fourteen of the said treaty of September twenty-seventh, eighteen hundred and thirty, and to identification as such by said Commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood, or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the right of citizenship in the Choctaw Nation, all of said Mississippi Choctaws so enrolled by said Commission shall be upon a separate roll."

It is therefore the opinion of this Commission that Jim Post-oak, Mary Post-oak and Brown (or Jim Brown) Post-oak, should be identified as Mississippi Choctaws, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


Chairman.


Commissioner.


Commissioner.


Commissioner.

Muskogee, Indian Territory,

MAR 12 1904

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Meridian, Mississippi, January 15, 1904.

Mr. H. Van V. Smith,
Special Agent Government,
Muskogee, Indian Territory,

Dear Sir:

I have the honor to advise that in accordance with instructions contained in letter of the Chairman, dated November 11, 1903, I have to-day taken the testimony of Jim Post oak, to be considered as additional testimony in the matter of the application made for the identification of himself, wife and two minor children, as Mississippi Choctaws, by Leanna Maley, and transmit herewith original and three carbon copies of said testimony.

The original application for the identification of Jim Post oak and family was made in 1899 before Honorable A. S. McKennon, and has not been carded.

Very respectfully,

Harry C. Risteen.

Copy

M.O.R. 7434

COPY

Muskogee, Indian Territory, March 16, 1904.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Enclosed herewith you will find a copy of the decision of the Commission, rendered March 12, 1904, identifying Jim Post-oak, his wife, Mary Post-oak, and his minor child, Brown (or Jim Brown) Post-oak, as Mississippi Choctaw Indians, under the provisions of section 41 of the act of Congress approved July 1, 1902, (32 Stat., 641).

You are hereby advised that you will be allowed fifteen days from the date of this notice in which to file with the Commission such protest as you desire to make against the action of the Commission in identifying said Jim Post-oak, his wife and child as Mississippi Choctaws, and make satisfactory proof of service of said protest upon the applicants herein. If you fail to file protest within the time allowed, the names of the applicants herein will be placed upon the schedule of duly identified Mississippi Choctaws now being prepared by this Commission.

Respectfully,

(SIGNED)

G. H. Breakeridge

Commissioner in Charge.

Registered,
No.: MCR-7434.

See MCR 2059 for registry receipt for this letter.

CO. O.B.

COMMISSIONERS
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRACKENRIDGE,
W. E. STANLEY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
M.C.R. 7434

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 16, 1904.

Jim Post-oak,

Chickatta, Mississippi,

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commission to the Five Civilized Tribes, rendered March 12, 1904, identifying you, your wife Mary Post-oak, and child Brown (or Jim Brown) Postoak, as Mississippi Choctaw Indians, under the provisions of Section 41 of the Act of Congress approved July 1, 1902 (32 Stats., 641).

Under the provisions of the law above cited, the persons so identified, in order to avail themselves of the benefits of such identification, must remove to and make settlement in the Choctaw-Chickasaw country, Indian Territory, on or before September 12, 1904, and must make proof of such removal and settlement on or before March 12, 1905, at the office of the Commission at Atoka, Choctaw Nation, or Tishomingo, Chickasaw Nation, Indian Territory.

Respectfully,



Commissioner in Charge.

Registered.

Enc. MCR 7434.

W.C.B.

REFER IN REPLY TO THE FOLLOWING:

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, October 31, 1906.

J. H. Wright,
Sulphur, Indian Territory.

Dear Sir:

Replying to your letter of October 25th in which you request to be informed as to whether or not Oscar, Lena and Sam Post oak have been placed on the rolls as citizens of the Cherokee Nation, you are advised that it appears from the records of this office that application has been submitted for the enrollment of Sam Post oak, infant child of Jim and Mary Post oak, under the provisions of the Act of Congress approved March 3, 1906, but as yet no action has been taken on said application.

It does not appear that application has been made for the enrollment of Oscar and Lena Post oak. The time within which applications could be filed for the enrollment of infant children under the Act above referred to expired May 3rd, 1905.

Respectfully,

Commissioner.

NCR 7434

Okmulgee, Indian Territory, November 10, 1905.

J. H. Wright,

Sulphur, Indian Territory.

Dear Sir:

Referring to your letter of the 3rd instant, inquiring as to what steps to take to secure the enrollment of Oscar and Lena Postoak, minor children of Jim and Mary Postoak, you are advised that the time within which applications could be filed for the enrollment of infant children as citizens of the Choctaw Nation under the provisions of the Act of Congress approved March 3, 1905, expired on May 2, 1905, and there is now no authority of law for the reception of such applications.

Respectfully,

Commissioner.

additional
testimony

No. 7434

FOR IDENTIFICATION AS A MISSISSIPPI CHOCTAW.

Date *Jan'y 15. 1904*
Name *Jim Post-oak*
Age *48* Blood *Full*

Post Office, *bonhatta. Miss*

Father: *John Post-oak. D. f.*

Mother: *Elija .. D. f.*

Claims through *both*

Wife: *Mary Post-oak. l. f.*

Children: *Jim Brown Post-oak. 9.*

Transferred from Choctaw Card # 422.

Claims for self, wife & child

Stenographer Henry C. Pister

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 11 1904



CHAPMAN

1079)

TIM Post oak,

COMENATTA, MESTESLOPI.

Returned and carried for

Department of the Interior.

Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, \$300.

REGISTERED
MAR 21 1904
MUSKOGEE, IND. TER.

Choctaw MCR 7435

Charles Harold Marshall

See MCR 3547, 3181.

MCR 7435

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

---o---

In the matter of the application of Charles Harold Marshall,
for identification as a Mississippi
Choctaw.

M.C.R. 3181.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

---o---

In the matter of the application of Charles Harold Marshall,
for identification as a Mississippi Choctaw, M.C.R. 3181.

--: I N D E X :--

	(Page)
Birth affidavit of Charles Harold Marshall-----	1
Decision of the Commission identifying said applicant as a Mississippi Choctaw-----	2

---o---

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.

In the matter of the application of)
Susan Cornelia Marshall et al for) M.C.R.3181.
Enrollment as a Mississippi Choctaw)

Comes now, Susan Cornelia Marshall and files this her motion to be permitted to file with the Hon. Commission to the Five Civilized Tribes the application for the Enrollment of her minor son Charles Harold Marshall and for cause states.

1st.

That her said son Charles Harold was born on the 22nd day of July 1902 and is still living.

2nd.

12
That on the 12th day of Sept. 1902 she caused to be made out a proper application for the enrollment of said child and on the same day tendered said application to said commission and asked that same be filed as a part of the record in said case, which said application was by said Commission on the 15th day of Sept. 1902 returned to applicants father Charles H. Marshall.

She therefore prays that this motion be granted and that said application be filed and that the filing thereof and the action of the Commission and the department thereon relate back to and have the same effect as though said Application had been duly filed on said 12th day of September 1902.

Respectfully Submitted,

Susan C. Marshall,

L. D. Horton

Her Attorney.

M.C.R. 31 81.

In the matter of the application
of Susan Cornelia Marshall et al
for enrollment as Mississippi
Choctaws.

Motion for leave to file Ap-
plication for enrollment of minor
child and order nunc pro tunc.

Durant, I. T.

L. D. Horton,

Attorney.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

---o---

In the matter of the application of Charles Harold Marshall
for identification as a Mississippi Choctaw, M.C.R. 3181.

---: D E C I S I O N :---

It appears from the record herein that on September 15, 1902, application was made to this Commission for the identification of Charles Harold Marshall, under the following provision of the act of Congress approved June 28, 1898 (30 Stats., 495):

"Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation, concluded September twenty-seventh, eighteen hundred and thirty, and to that end may administer oaths, examine witnesses, and perform all other acts necessary thereto and make report to the Secretary of the Interior."

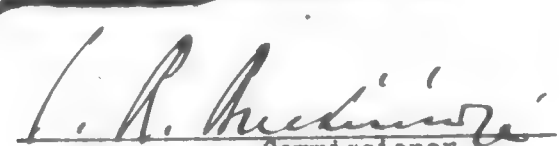
From the records of the Commission it appears that the applicant herein is a son of Susan Cornelia Marshall, principal applicant in M.C.R. 3181, who, on December 11, 1903, was identified by this Commission as a Mississippi Choctaw under the provisions of article fourteen of the treaty of eighteen hundred and thirty, the applicant herein being omitted from said decision.

It is therefore the opinion of this Commission that Charles Harold Marshall should be identified as a Mississippi Choctaw, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


Chairman.


Commissioner.


Commissioner.


Commissioner.

Muskogee, Indian Territory,

MAR 12 1904

mem-13

IN RE

Application for Enrollment of

INFANT CHILD

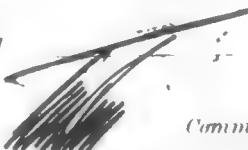
Charles Harold Marshall

as a citizen of the

Choctaw Nation.

Approved

1902



Commissioner.

This application was first received at this office on September 15, 1902.

COMM.

RECEIVED
SEP 28 1902
DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE CIVILIZED TRIBES.

mem 3181

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation,
of Charles Harold Marshall born on the 22 day of July, 1902
(Here insert name of child)
Name of Father: Charles H. Marshall a citizen of the United States Nation.
Name of Mother: Susan C. Marshall ^{an applicant for enrollment as a citizen of the Choctaw} a citizen of the Choctaw Nation.
Post-Office: Durant, Ind. Ter.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, }
Central District. }

I, Susan C. Marshall, on oath state that I am 35
^{an applicant for enrollment as a citizen of the Choctaw}
years of age and a citizen, by blood, of the Choctaw Nation;
that I am the lawful wife of Charles H. Marshall, who is a citizen, by
nativity, of the United States Nation, that a Male child was
(Male or female.)
born to me on the 22 day of July, 1902; that said child has been
named Charles Harold, and is now living.

WITNESSES TO MARK:

Susan Cornelia Marshall

(Must be Two Witnesses.)

Subscribed and sworn to before me this 12 day of September, 1902

L. D. Horton
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, }
Central District. }

I, J. L. Shouler, a Physician, on oath state that I
attended on Mrs. Susan C. Marshall, wife of Charles H. Marshall
on the 22 day of July, 1902; that there was born to her on said
date a male child; that said child is now living and is said to have been
(Male or female.)
named Charles Harold.

WITNESSES TO MARK:

Jas. L. Shouler

(Must be Two Witnesses.)

Subscribed and sworn to before me this 12 day of September, 1902

L. D. Horton
Notary Public.

H C R 2141

Muskogee, Indian Territory, September 15, 1908.

C. H. Marshall,
Durant, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 12th instant, enclosing the affidavits of the mother and attending physician to the birth of your child, born July 22, 1908, which you ask to be filed in the record of the case of your wife Susan Cornelia Marshall. The same are herewith returned to you for the reason that on February 3, 1908, the Commission rendered its decision refusing the application made by your wife for the identification of herself and minor children as Mississippi Choctaws, which decision was, on March 14, 1908, approved by the Secretary of the Interior, and on March 22, 1908, your wife was duly notified of such Departmental action.

Yours truly,

Acting Chairman.

Reg. 22-13

N.C.R. 3181

Muskogee, Indian Territory, August 21, 1908.

L. D. Horton,

Attorney-at-Law,

Durant, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 14, enclosing application for the identification of Charles Harold Marshall, infant child of Susan Cornelia Marshall, as a Mississippi Choctaw, together with her motion to be permitted to file said application, and that the same be made a part of the record in her case. She further stating that said application was on the 12th day of September, 1908, forwarded to the Commission and on the 15th day of September, 1908, returned to the applicant's father, Charles H. Marshall.

In reply to your letter you are informed that it appears from our records that on September 15, 1908, the application for the identification of Charles Harold Marshall, as a Mississippi Choctaw, was returned for the reason that the Commission had already rendered its decision refusing the application of his mother, Susan Cornelia Marshall for identification as a Mississippi Choctaw, and on March 14, 1908, this decision had been affirmed by the Secretary of the Interior.

As the Secretary of the Interior has rendered the decision

L D. H. 2

dated Mississippi Choctaw case of Susan S. Burton, et al., of which the application of Susan Cornelia Marshall, et al., was a part, for the submission of argument, the application for the identification of Charles Harold Marshall, infant son of Charles H. and Susan Cornelia Marshall, being in proper form will be forwarded the Department for consideration in connection with the record in this case.

Respectfully,

Commissioner in Charge.

M C R 3181 A

Muskogee, Indian Territory, December 29, 1903.

Charles H. Marshall,
Durant, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 14th instant, in which you state "In the judgment admitting Susan Cornelia Marshall et al as Mississippi Choctaws the name of Charles Harold Marshall does not appear as having been passed upon."

In reply you are informed that the Commission has not up to the present time rendered any opinion or decision relative to the right of Charles Harold Marshall to be identified as a Mississippi Choctaw, but when a decision is rendered you will be duly notified thereof.

Respectfully,

Chairman.

Land.
7387-1904.

DEPARTMENT OF THE INTERIOR, (COPY).
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, February 11, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental letter of the 28th ult., I.T.D. 617, 1904, enclosing the petition of Susan Cornelia Marshall that the Commission to the Five Civilized Tribes be directed to identify her son Charles Harold Marshall as a Mississippi Choctaw.

It appears that Susan Cornelia Marshall was identified as a Mississippi Choctaw in the case of Susan S. Burton et al. The Department now desires that the record in this case be returned together with the opinion of this office as to whether or not the petition should be granted.

It appears in this case that Charles Harold Marshall, a child of Charles H. and Susan C. Marshall was born July 22, 1902; that application for his identification was made to the Commission September 12, 1902, and that proof of birth of the child was sent to the Commission at that time; that on September 15, 1902, the Commission returned the application to the father, Charles H. Marshall, for the reason that the Commission had already rendered a decision refusing the application of the child's mother; that on August 14, 1903, after the consolidated case of Susan S. Barten et al, of which the application of Susan C. Marshall et al is a part, was returned and application to the Commission was again made for the identification of Charles Harold Marshall

with a prayer that the application date back to take effect from September 12, 1902, the day the application was first made. The parties contend that the application in behalf of Charles Harold Marshall should have been considered in connection with the identification of the rest of the family on December 11, 1902. I am of the opinion that this contention is correct and therefore recommend that the case be readjusted as to Charles Harold Marshall and the Commission directed to identify him.

The original record in the case is enclosed.

Very respectfully,

A. C. Tenner,

Acting Commissioner.

HH-2

DC-7568-1904.
ITD-1248-1904.
L.R.S.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, March 4, 1904. WCF. FHE.

(COPY).

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory,

Gentlemen:

There is enclosed herewith a petition signed by Susan Cornelia Marshall, asking that your Commission be directed to identify her son, Charles Harold Marshall, as a Mississippi Choctaw.

Susan Cornelia Marshall was identified as a Mississippi Choctaw in the case of Susan S. Burton, et al. It appears that Charles Harold Marshall was born July 22, 1902; that application for his identification was made to your Commission on September 12, 1902, and that proof of his birth was also sent to your Commission at that time; that on September 15, 1902, you returned the application of Charles Harold Marshall to his father, Charles H. Marshall, for the reason that your Commission had already rendered a decision refusing the application of the child's mother; that on August 14, 1903, after the consolidated case of Susan S. Burton et al, of which the case of Susan Cornelia Marshall et al. shall/was a part, was returned, an application to the Commission was again made for the identification of Charles Harold Marshall, with the prayer that the application date back to take effect on September 12, 1902.

With the petition is inclosed a letter written by you on August 21, 1903, to Mr. L. D. Norton, acknowledging receipt of the application, and stating that the same being in proper form, would be forwarded to the Department for consideration in connection with the

record in the case. It appears that said application was not forwarded to the Department, and therefore the name of Charles Harold Marshall was not included in the Commission's judgment in favor of Susan Cornelia Marshall et al, rendered December 11, 1903.

Reporting in the matter February 11, 1904, the Acting Commissioner of Indian Affairs recommends that the case ^{be} readjudicated as to Charles Harold Marshall, and that your Commission be directed to identify him.

The Department concurs in said recommendation, and you are directed to identify said Charles Harold Marshall as a Mississippi Choctaw.

Your attention is also invited to the request in said petition that the name of Balentine Marshall be changed to Valentine Marshall.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

THOS. RYAN,

Acting Secretary.

3 inclosures.

(Note:-No petition enclosed. -R.H.)

COPY. M.C.R. 3181

Muskogee, Indian Territory, March 14, 1904.

Susan Cornelia Marshall,
Durant, Indian Territory,

Dear Madam:

You are hereby notified that the Commission to the Five Civilized Tribes, on March 12, 1904, rendered a decision identifying your minor child, Charles Harold Marshall, as a Mississippi Choctaw Indian, under the provision of the Act of Congress approved June 28, 1898 (30 Stats., 495), which is as follows:

"Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation, concluded September twenty-seventh, eighteen hundred and thirty, and to that end may administer oaths, examine witnesses and perform all other acts necessary thereto and make report to the Secretary of the Interior."

Respectfully,

(SIGNED)

T. B. Noddies.

Commissioner in Charge.

Registered.

Enc. M.C.R. 3181.

M.C.R. 3181

Muskegee, Indian Territory, March 14, 1904.

L. D. Horton,

Attorney at Law,

Durant, Indian Territory,

Dear Sir:

You are hereby notified that the Commission to the Five Civilized Tribes, on March 12, 1904, rendered a decision identifying Charles Harold Marshall, minor child of Susan Cornelia Marshall, as a Mississippi Choctaw Indian, under the provision of the Act of Congress approved June 28, 1898 (30 Stats., 495), which is as follows:

"Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation, concluded September twenty-seventh, eighteen hundred and thirty, and to that end may administer oaths, examine witnesses and perform all other acts necessary thereto and make report to the Secretary of the Interior."

Respectfully,

(SIGNED)

T. B. Needles.

Commissioner in Charge.

Registered.

M.C.R. 7435

Muskogee, Indian Territory, March 15, 1904

Charles H. Marshall,

Attorney at Law,

Durant, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of February 18, relative to the identification of Charles Harold Marshall, infant son of Susan Cornelia Marshall, as a Mississippi Choctaw.

In reply thereto you are advised that on March 12, 1904, the Commission rendered a decision identifying Charles Harold Marshall as a Mississippi Choctaw. Copy of this decision has been furnished the attorneys for the Choctaw and Chickasaw Nations and in the event no objection is entered by them to the action of the Commission in identifying this child, his name will be placed upon a schedule of duly identified Mississippi Choctaws to be submitted to the Secretary of the Interior.

Respectfully,

Commissioner in Charge

M.C.N. 7435

Muskogee, Indian Territory, March 15, 1904

Mansfield, Murray & Cernish,

Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory,

Gentlemen:

There is inclosed you herewith copy of the decision of the Commission of March 12, 1904, identifying Charles Harold Marshall as a Mississippi Choctaw. The Charles Harold Marshall so identified is the son of Susan Cornelia Marshall who was identified by the Commission as a Mississippi Choctaw on December 11, 1903, in the consolidated Mississippi Choctaw case of Susan B. Barton, et al., under Departmental instructions of November 24, 1903.

You are advised that you will be allowed fifteen days from the date hereof within which to file such protest as you desire to the action of the Commission in this matter and if, at the expiration of that time, no protest is filed, the name of this child will be placed upon a schedule of duly identified Mississippi Choctaws to be prepared by the Commission for submission to the Secretary of the Interior.

In connection with the identification of this child the Commission is in receipt of a letter from the Secretary of the Interior

N NoM & O 2

ior of March 14, 1904, (I.T.D. 1284-1904) with which was inclosed a report of the commissioner of Indian Affairs of February 11, 1904, (Land 7311-1904) copies of which are herewith inclosed for your information.

Respectfully,

Commissioner in Charge.

AB 1-15

7435

Muskogee, Indian Territory, March 15, 1904.

The Honorable,

The Secretary of the Interior,

Sir:

I have the honor to acknowledge receipt of Departmental communication of March 4, 1904, (I.T.D. 1248-1904) inclosing a report of the Acting Commissioner of Indian Affairs of February 11, 1904, (Land 7387-1904) relative to the identification of Charles Harold Marshall as a Mississippi Choctaw.

The Department, in its letter of March 4, 1904, stated that there was inclosed with the letter a petition signed by Susan Cornelia Marshall asking that the Commission be directed to identify her son, Charles Harold Marshall, as a Mississippi Choctaw. The petition referred to was not inclosed with Departmental communication of that date.

In this matter I have the honor to advise that on March 12, 1904, the Commission rendered a decision identifying Charles Harold Marshall, born July 27, 1902, and the son of Susan Cornelia Marshall who was identified by the Commission on December 11, 1903, as a Mississippi Choctaw. A copy of this decision has heretofore been forwarded the attorneys for the Choctaw and Chickasaw nations and they have been allowed fifteen days from the date thereof within

which to submit such protest as they desire to the action of the Commission in this matter. If, at the expiration of said time, no protest is filed, the name of this child will be placed upon a schedule of duly identified Mississippi Choctaws to be submitted to the Secretary of the Interior.

Notice of this action of the Commission has also been furnished Susan Cornelia Marshall, the mother of Charles H. Marshall and L. D. Horton, who appears as attorney of record for Susan Cornelia Marshall.

Respectfully,

Commissioner in Charge.

Through the Commissioner
of Indian Affairs.

M C R 3181
M C R 7435

Muskogee, Indian Territory, March 24, 1904.

Charles H. Marshall,
Attorney at Law,
Durant, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 2nd instant, by reference from the Secretary of the Interior. Therein you ask if your wife, Susan Cornelia Marshall, and children have been approved as Mississippi Choctaws.

In reply you are informed that the names of Susan Cornelia Marshall and two minor children, Valentine and John H. Marshall, appear upon a schedule of duly identified Mississippi Choctaws approved by the Secretary of the Interior February 5, 1904.

Our records further show that Charles Harold Marshall, infant son of Charles H. and Susan Cornelia Marshall, was identified by this Commission as a Mississippi Choctaw on March 12, 1904, but his name has not yet been placed upon a schedule of such Mississippi Choctaws prepared for forwarding to the Secretary of the Interior.

Respectfully,

Commissioner in Charge.

Choctaw MCR 7436

Sanders Barcus

MCR 7436

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application for the identification of
Sanders Barcus as a Mississippi Choctaw.

-oOo-

Herein is the record in the matter of the application for
the identification of Sanders Barcus, as a Mississippi
Choctaw, M.C.R. 7436.

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DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application for the identification of
Sanders Barcus, as a Mississippi Choctaw, M.C.R. 7436.

--: I N D E X :--

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Additional testimony of Sanders Barcus-----	2
Decision of the Commission identifying said Sanders Barcus as a Mississippi Choctaw-----	6

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DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-200-

In the matter of the application for the identification of Sanders Barcus, as a Mississippi Choctaw, M.C.R. 7436..

Testimony of Isom Comby, taken before the Commission to the Five Civilized Tribes at Philadelphia, Mississippi, January 31, 1899.

ISOM COMBY, the applicant, states: I am 62 years old and am a full-blood Choctaw. My wife is a full-blood Choctaw named Jennie, 48 years old. We have the following unmarried children: Robert, 16; Margaret Jane, 11; Gus, 8; Pearlle, 6. I have an orphan child living with me named Sanders Barcus, Barcus 22 years old. I have a son married whose name is Ben Comby, age 24 years; his wife is named Dump, 20 years old. They have no children. I have another son, Almon Comby, who is married. He is 18 years old and his wife is named Sib and she is 18 years old. They have no children. I want to give in Jane Knox, 50 years old a full blood Choctaw.
(FULL-BLOOD).

-200-

I, Josie Devlan, stenographer to the Commission to the Five Civilized Tribes, upon oath state that the above and foregoing is a true and correct copy of the original testimony now on file with the Commission.

Subscribed and sworn to before me this 23rd day of June, 1899.

Josie Devlan
Notary Public.

Department of the Interior
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, June 28, 1904.

-009-

In the matter of the application for the identification of
Sanders Barcus as a Mississippi Choctaw, M.C.R. 7436.

ADDITIONAL TESTIMONY.

Sanders Barcus, having been first duly sworn, testified
as follows:

Examination by the Commission:

- Q What is your name? A Sanders Barcus.
Q How old are you? A 25.
Q What is your postoffice address? A Midway.
Q Choctaw Nation? A Yes.
Q Do you get your mail at Midway? A Yes.
Q How long have you lived in the Indian Territory? A Four years.
Q Where did you live prior to that time? A Leake county, Miss-
issippi, close to Carthage.
Q Were you born in Leake county? A Yes.
Q Are you a full-blood Choctaw Indian? A Yes.
Q What is your father's name? A Mas Barcus.
Q Is he a full-blood Choctaw? A Yes.
Q Is he living? A Yes.
Q Where does he live? A At Atoka.
Q What is his age? A I don't know.
Q Has he been identified by the Commission? A Yes.
Q As a full-blood Choctaw? A Yes.
Q What is your mother's name? A I don't know.
Q Did you ever see her? A No, she dead.
Q Was she a full-blood Choctaw? A Yes.
Q Where did your mother live before she died? A Leake, county.
Q Do you know the names of the father and mother of your father?
A No.
Q What is your mother's name? A Lissie Barcus.
Q Was Lissie Barcus a full-blood Choctaw? A Yes.
Q Have you a brother by the name of Bob Barcus? A Yes sir.
Q You claim your Choctaw blood through your father and mother?
A Yes sir.
Q Are you married? A No.
Q You claim for yourself alone, do you? A Yes.
Q Is your name on any of the tribal rolls of the Choctaw Nation?
A No.
Q Did you ever make application for citizenship in the Choctaw
Nation to the Choctaw tribal authorities? A No.
Q Did you ever make application for enrollment as a citizen in the
Choctaw Nation to the Commission to the Five Civilized Tribes
under the act of Congress of June 30, 1896? A No.
Q Were you ever admitted to citizenship in the Choctaw Nation
by either the Choctaw tribal authorities, the Commission to the

Sanders Barcus--2

- Five Civilized Tribes, or the United States Court in Indian Territory? A No.
- Q No other application has been made by you except the one made by Isom Comby? A No.
- Q Isom Comby made application for you in 1899, at Philadelphia, Mississippi? A Yes.
- Q What relation is Isom Comby to you? A Grandfather.

The records of the Commission show that Isom Comby, the grandfather of this applicant appeared before the Commission to the Five Civilized Tribes at Philadelphia, Mississippi, January 31, 1899, and made application for the identification of this applicant as a Mississippi Choctaw, his name appearing upon Mississippi Choctaw card, field No. 264, also on page 69 of the schedule of Mississippi Choctaws which accompanied the report of March 10, 1899, of the Commission to the Five Civilized Tribes, to the Secretary of the Interior as to the identity of Choctaw Indians residing in Mississippi claiming rights in the Choctaw lands under the provisions of the 14th article of the treaty of "Dancing Rabbit Creek."

- Q Do you know the names of the father and mother of your father? A No.
- Q Do you know the names of the father and mother of your mother? A No.
- Q Were they all full-bloods? A Yes.
- Q Have all of your ancestors been full-bloods? A Yes.
- Q Do you understand article 14 of the treaty of 1830? A No.

In order that you may more intelligently answer the question that will next be asked you, a short explanation will be given of article 14. In the year 1830, the United States Government and the Choctaw Nation entered into a treaty and as the result of their negotiations this treaty called the treaty of Dancing Rabbit Creek was ratified, and gave to the Indians in Mississippi and Alabama rights in the Choctaw Nation, Indian Territory. The treaty was made for the purpose of removing the Indians from Mississippi and Alabama to the Indian Territory, but it was discovered before the treaty was signed, that a good many Indians would not go there. In order that those who remained might have their rights protected, article fourteen was inserted. It provided that those Indians who desired to remain in Mississippi and Alabama should have the right to do so and afterwards have the right to assert claims to rights in the Choctaw Nation, Indian Territory, provided that within six months after the treaty was ratified, they went to the United States Indian Agent, Colonel Ward, and told him that they wanted to stay in Mississippi, take land there and live on it five years and then have it given to them by the government, and also were to declare their intention to become citizens of the United States. And they afterwards could remove to the Indian Territory and have all the rights of Choctaw citizenship except to share in the annuities.

- Q Do you know whether your father or your mother, or your grandfather or grandmother, or your great-grandfather or great-grandmother, or any of your ancestors further back supplied with the

- provisions of article 14 of the treaty of 1830, as explained to you? A No.
- Q Did your father have an Indian name? A Yes sir.
- Q What is it? A Barcus.
- Q Did your mother have an Indian name? A No.
- Q What relation is Isom Comby to you? A Don't know.
- Q When you stated that Isom Comby was your grandfather, you didn't know whether that was right or not? A No.
- Q Bob Barcus, your brother, when he appeared before the Commission stated that the father of your father Barcus, was also named Barcus? A Yes sir.
- Q Did you ever hear that? A Yes.
- Q Do you know of anybody who could testify relative to your ancestors? A No.
- Q Did any of your ancestors, within six months after the ratification of the treaty of 1830, tell Colonel Ward, The United States Indian Agent, that they would stay in Mississippi and did not want to go to the Indian Territory? A Don't know.
- Q Did any of your ancestors go from Mississippi or Alabama to the Indian Territory with the other Indians between the years of 1833 and 1838? A Don't know.
- Q Did any of your ancestors ever receive or claim any land in Mississippi or Alabama under article 14 of the treaty of 1830? A Don't know.
- Q Did any of your ancestors receive any scrip from the United States government under the act of Congress approved March 3, 1837, and August 23, 1842? A Don't know.
- Q Do you know whether any of your ancestors, your father or your mother, or grandparents owned any improvements in the old Choctaw Nation in Mississippi and Alabama in 1830? A Yes.
- Q Where were they located (No answer)
- Q Do you know what I mean by improvements? A No.
- Q Did they have any land in cultivation; any house? A Don't know.

Under the Acts of Congress approved March 3, 1837 and August 23, 1842, Commissions were appointed to go to Mississippi and hear all claimants who considered that they had rights under article 14 of the treaty of 1830.

- Q Did any of your ancestors go before either of these Commissions and try to prove they had rights under article fourteen of the treaty of 1830?? A Don't know.
- Q Have you any written evidences, affidavits or patent that you want to present to the Commission? A No.
- Q Your brother Bob Barcus has been identified by the Commission? A Yes sir.
- Q Has he filed on his land? A Yes sir.

-000-

This applicant has the appearance of being a full-blood Choctaw Indian, speaks both the Choctaw and English language; the transactions having been conducted in the English language. He has no knowledge of any compliance on the part of his ancestors with the provisions of article 14 of the treaty of 1830.

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Readers Barque--4

John Davis, having been first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, and reported in full, all proceedings had in the foregoing cause on the 26th day of June, 1904, and that the above and foregoing is a full, true and correct transcript of her stenographic notes taken in said cause on said date.

John Davis
Subscribed and sworn to before me this 28 day of June, 1904.

Charles H. Sawyer
Notary Public.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application for the identification of Sanders Barcus, as a Mississippi Choctaw, M.C.R. 7436.

---: D E C I S I O N :---

It appears from the record herein that application for identification as a Mississippi Choctaw was made to this Commission on January 3, 1899 by Isom Comby for Sanders Barcus, under the following provision of the act of Congress approved June 28, 1898, (30 Stats., 495):

"Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation, concluded September twenty-seventh, eighteen hundred and thirty, and to that end may administer oaths, examine witnesses, and perform all other acts necessary thereto and make report to the Secretary of the Interior."

From the evidence submitted in support of said application it appears that said applicant is a full-blood Mississippi Choctaw Indian.

Section forty-one of the act of Congress entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," approved July 1, 1902,

(32 Stats., 641), and ratified by the Choctaw and Chickasaw Nations September 25, 1902, provides as follows:

"The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement and in the disposition of such applications all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi Choctaw Indians whether of full or mixed blood who received a patent to land under the said fourteenth article of the said treaty of eighteen hundred and thirty who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June twenty-eighth, eighteen hundred and ninety-eight, shall be deemed to be Mississippi Choctaws, entitled to benefits under article fourteen of the said treaty of September twenty-seventh, eighteen hundred and thirty, and to identification as such by said Commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood, or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the right of citizenship in the Choctaw Nation, all of said Mississippi Choctaws so enrolled by said Commission shall be upon a separate roll."

It is, therefore, the opinion of this Commission that Sanders Barcus should be identified as a Mississippi Choctaw, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


Chairman.


Commissioner.


Commissioner.

Muskogee, Indian Territory,

AUG 31 1904

COPY.

M.C.R. 7436

Muskogee, Indian Territory, September 27, 1904.

Sanders Barous,

Midway, Indian Territory.

Dear Sir:

Inclosed you will find a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 31st, 1904, identifying you as a Mississippi Choctaw.

Under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), in order for you to avail yourself of the benefits thereof, you must remove to and make settlement within the Choctaw-Chickasaw country, Indian Territory, on or before March 27, 1905. The Act above referred to also provides that proof of such settlement shall be made to this Commission within one year after the date of the identification of yourself as a Mississippi Choctaw.

By the Act of Congress approved April 21, 1904, (Public No. 186), it is provided that the Commission shall close its work and terminate on or before the first day of July, 1905. It is therefore, suggested that you appear before the Commission, at the Choctaw Land Office, at Atoka, Indian Territory, or the Chickasaw Land Office, at Tishomingo, Indian Territory, for the purpose of making proof of your removal to and settlement within the Choctaw-

U.S. 2

Chicagoan country, at the earliest practicable date.

Respectfully,

Tame Dixby.

(SIGNED)

Chairman.

Registered.

Insl. M.C.R. 7436.

COPY.

M.O.R. 7436

Muskogee, Indian Territory, September 27, 1904.

Mansfield, McMurray & Gornish,
Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Inclosed you will find a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 31st, 1904, identifying Sanders Barcus as a Mississippi Choctaw.

You are further advised that you will be allowed fifteen days from the date of this notice within which to file with this Commission such protest as you desire to make against the action of the Commission in identifying said applicant as a Mississippi Choctaw. If at the expiration of that time no protest has been filed, his name will be placed upon the schedule of duly identified Mississippi Choctaws now being prepared by this Commission.

Respectfully,

Tams Bixby.

Chairman.

registered.

Incl. M.O.R. 7436.

No. 7436

FOR IDENTIFICATION AS A MISSISSIPPI CHOCTAW.

By ^{Date} *Jan 31, 1899*
Sam Combs
Name *Sanders Barcus*

Age *25* Blood *Full*

Post Office, *Midway I.T.*

Father: *Man Barcus*

Mother: *Lizzie Barcus*

Claims through

Children:

No. 136

FOR IDENTIFICATION AS A MISSISSIPPI CHOCTAW.

Date June 28/04

Name Sanders Bruce

Age 25 Blood full

Post Office, Midway D.C.

Father:

Mother:

Claims through

Children:

~~Additional testimony~~

Stenographer J. J. Davis

Choctaw MCR 7437

Minnie Ola Beatty

MCR 7437

C O P Y

Central District,

Indian Territory.

I, James H. Tims, do solemnly swear that I am of lawful age, that my Post office is Antlers, I. T., -- that I have known Belle Baty for more than six months, and know her child, Minnie Ola Baty, a girl, and have lived with and near them since I have known them and have seen her nursing the child, and believe that said child is her child, and that said child is now living.

(SEAL)

(signed) James B. Tims

Subscribed and sworn to before me this 27th day of Dec. 1902.

(signed) A. J. Arnott.

Central District,

Indian Territory.

I, Charles W. Jowers, do solemnly swear that I am of lawful age, that my Post Office is Antlers, I. T., that I have known Belle Baty and her husband L. P. Baty for over five months, and know their child, Minnie Ola Baty, a girl, and have lived near them since I have known them, and have seen Mrs. Baty nursing the child and believe it to be her child and that said child is now living.

(signed) Charles W. Jowers

(SEAL)

Subscribed and sworn to before me this 27th day of Dec. 1902.

(signed) A. J. Arnott,
Notary Public.

C O P Y

Central District

Indian Territory

I, Belle Baty, do solemnly swear that, Dr. Little who was our physician at the time of the birth of my child, Minnie Ola, has left the country and I am not able to locate him and can not get his affidavit, and that the mid wife who was present, Mrs. Taylor, is some place in Oklahoma, but I can not locate her to procure her affidavit, . . . That Mrs. Taylors daughter was present at the time of the birth of my child but she left with her mother and I can not locate her and that there was no one else present at the time of the birth of my child, so that I can not procure the affidavit of any one that was present at the time of the birth of my child.,

(signed Belle Baty

(SEAL)

Subscribed and sworn to before me this the 27th day of Dec. 1902.,

(signed) A. J. Arnote
Notary Public.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

M C R 7437

---oOo---

In the matter of the application for the identification of Minnie Ola Beatty (Baty) as a Mississippi Choctaw.

-o- D E C I S I O N -o-

It appears from the record herein that there was received at the general office of the Commission to the Five Civilized Tribes, at Muskogee, Indian Territory, on December 28, 1902, written application for the identification of Minnie Ola Baty, born December 24, 1901, as a Mississippi Choctaw; said application being supported by the affidavits of Belle Baty, James B. Sims, and Charles W. Jowers.

It further appears from the records of the Commission that the applicant, Minnie Ola Beatty (Baty) is the child of L. Frank Beatty, a non-citizen white man, and Belle Beatty, the latter of whom, on December 12, 1900, made personal application to the Commission to the Five Civilized Tribes for identification as a Mississippi Choctaw.

On December 20, 1902, the Commission to the Five Civilized Tribes rendered a decision refusing the application of Belle Beatty for identification as a Mississippi Choctaw, which decision was affirmed by the Secretary of the Interior on June 8, 1903.

M. C. R. 7437-1903

Whatever rights the applicant, Minnie Ola Beatty (Baty)

might have as a Mississippi Choctaw are entirely dependent upon the rights of her mother, Bella Beatty. Inasmuch as the mother of the child has been refused identification as a Mississippi Choctaw by the Commission to the Five Civilized Tribes, which decision has been affirmed by the Secretary of the Interior, it is the opinion of this Commission that Minnie Ola Beatty (Baty) is not entitled to identification as a Mississippi Choctaw and that the application made for her identification should be refused, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES


Chairman.


Commissioner.

Muskogee, Indian Territory,

JAN 19 1905

K C R 7437

Muskogee, Indian Territory, January 10, 1908.

Belle Beatty,

Antlers, Indian Territory.

Dear Madam:

There is herewith enclosed you one copy of the decision of the Commission to the Five Civilized Tribes rendered this date, refusing the application heretofore made in the form of a birth affidavit, for the identification of Minnie Ola Baty (or Beatty), infant daughter of L. F. and Belle Baty, born December 24, 1901, as a Mississippi Choctaw.

Respectfully,

Chairman.

McM 1

M.C.R.1209

A 7437.

Muskogee, Indian Territory, March 9, 1907.

Belle Baty,

Antlers, Indian Territory.

Dear Madam:

Your letter to the Secretary of the Interior dated January 22, 1907, requesting to be informed as to the status of the application of yourself and minor children, Osa Lee Baty and Minnie Ola Baty, has been referred to this Office.

In reply thereto, you are advised that the application of yourself and minor child, Osa Lee Baty, under the names of Belle Beatty and Osa Beatty, for identification as Mississippi Choctaws, was refused by a decision of the Commissioner to the Five Civilized Tribes rendered December 20, 1903, in the consolidated Mississippi Choctaw case of Lucinda Mearry et al, M. C. R. 1270, said decision being affirmed by the Secretary of the Interior on June 5, 1905.

You are further advised that on January 10, 1905, the Commissioner to the Five Civilized Tribes refused the application for the identification of Minnie Ola Baty, and of which decision you were notified by letter bearing said date.

Respectfully,

Commissioner.

*IN RE**Application for Enrollment of**INFANT CHILD**Winnie Olu Baty**as a citizen of the**Choctaw* Nation.

Approved _____ 190 _____

Commissioner.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation,
 of Minnie Ola Baty, born on the 24th day of Dec., 1901
(Here insert name of child.)
 Name of Father: L. F. Baty, a citizen of the _____ Nation.
 Name of Mother: Belle Baty, a citizen of the Choctaw Nation.
 Post-Office: Outlers T. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY,
Central District. }

I, Belle Baty, on oath state that I am 32
 years of age and a citizen, by blood, of the Choctaw Nation;
 that I am the lawful wife of L. F. Baty, who is a citizen, by
 _____, of the United States Nation, that a Female child was
(Male or female.)
 born to me on the 24th day of December 1901; that said child has been
 named Minnie Ola Baty, and is now living.

WITNESSES TO SIGN:

(Must be Two
 Witnesses.) }

Subscribed and sworn to before me this 27th day of December 1902

A. J. Amote
 Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY,
 _____ District. }

I, _____, on oath state that I
 attended on Mrs. _____, wife of _____

Central District.

Indian Territory,

I, Belle Baty, do solemnly swear that, Dr., Little who was our physician at the time of the birth of my child, Minnie Ola, has left the country and I am not able to locate him and can not get his affidavit, and that the mid wife who was present, Mrs. Taylor, is some place in Oklahoma, but I can not locate her to procure her affidavit, . , That Mrs. Taylors daughter was present at the time of the birth of my child but she left with her mother and I can not locate her and that there was no one else present at the time of the birth of my child, so that I can not procure the affidavit of any one that was present at the time of the birth of my child.,

Belle Baty

Subscribed and sworn to before me this the 27th day of Dec. 1902.,

A. J. Amate
Notary Public.,

Central District.

Indian Territory.

I, James R. Tims, do solemnly swear that I am of lawful age, that my Post office is Antlers, I. T. , -- that I have known Belle Baty for more than six months, and know her child, Minnie Ola Baty, a girl, and have lived with and near them since I have known them and have seen her nursing the child, and believe that said child is her child, , and that said child is now living,

James R. Tims

Subscribed and sworn to before me this the 27th day of Dec. 1902.

A. J. Amate
Notary Public.

Central District/

Indian Territory.,

I, Charles W. Jowers, do solemnly swear that I am of lawful age, that my Post Office is Antlers, I. T. , that I have known Belle Baty and her husband L. F. Baty for over five months, and know their child, Minnie Ola Baty, a girl, and have lived near them since I have known them, and have seen Mrs. Baty nursing the child and believe it to be her child and that said child is now living,

Charles W. Jowers

Subscribed and sworn to before me this the 27th day of Dec. 1902.

A. J. Amate
Notary Public.

IN RE

Application for Enrollment of

INFANT CHILD

Minnie Ola Baty

as a citizen of

Choctaw

Nation.

Approved

190...

Commissioner.

Copy 20

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the *Choctaw* Nation,
of *Minnie Ola Baty*, born on the *24th* day of *Dec.*, 1901.
(Here insert name of child)
Name of Father: *L. F. Baty* a citizen of the _____ Nation.
Name of Mother: *Belle Baty* a citizen of the *Choctaw* Nation.
Post-office *Autlers I. T.*

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA,
INDIAN TERRITORY
Central District.

I, *Belle Baty*, on oath state that I am *32*
years of age and a citizen, by *blood*, of the *Choctaw* Nation;
that I am the lawful wife of *L. F. Baty*, who is a citizen, by
_____ of the *United States* Nation; that a *Female* child was
(male or female.)
born to me on *24th* day of *December* 1901; that said child has been
named *Minnie Ola Baty*, and is now living.

WITNESSES TO MARK:

(Signed) *Belle Baty*

(Must be Two Witnesses.)



Subscribed and sworn to before me this

27th day of *December*, 1902

A. J. Arnote
NOTARY PUBLIC.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
_____ District,

I, _____, a _____, on oath state that I
attended on Mrs. _____, wife of _____
on the _____ day of _____, 1902, that there was born to her an

Choctaw MCR 7438

George Morrison

MCR 7438

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application of George W. Morrison for the identification of herself and her five minor children, Emma Z., Anna May, Henry B., Frank L., and Fannie H. Morrison, as Mississippi Choctaws, and for the identification of her husband, John F. Morrison, as an intermarried Mississippi Choctaw.

In the matter of the application for the identification of Laura K. (Ella) McPhail and her minor children, Frank, Myra, Fannie, Grace, Gates, Preston, Virgil, and Homer McPhail, as Mississippi Choctaws.

In the matter of the application of Lillie Margaret Fountain for identification as a Mississippi Choctaw.

In the matter of the application for the identification of Mary E. Dees and her children, Henry H., Mary E. Wood, George A., Walter T., Edgar R., Oscar E., Fannie E., Katiebelle and Willie W. Dees, and her grandchildren, Tommy W. Dees, Herbert Dees and Sammie D. Wood as Mississippi Choctaws.

In the matter of the application for the identification of Fannie E. Wiltshire as a Mississippi Choctaw.

STATEMENT OF FACT.

The Department on March 20, 1906 (I. T. D 1596-1902, 4226-1905), transmitted to the Commissioner to the Five Civilized Tribes a petition filed with the Department on December 15, 1905, by Georgia W. Morrison (nee Georgia W. Burton), praying for the identification of herself and her minor children as Mississippi Choctaws and for the identification of her husband as an intermarried Mississippi Choctaw.

The Department in returning this case to the Commissioner to the Five Civilized Tribes invites attention to the record in the consolidated Mississippi Choctaw case of Susan S. Burton, et al., M. C. R. 3547, and expresses the opinion that from said record it is apparent that prior to March 25, 1903, application was attempted to be made, but was refused, on behalf of Georgia W. Morrison for her identification as a Mississippi Choctaw, and directed that she now be permitted to submit proof of her right to be so identified.

Under date of February 26, 1906, the Department referred to the Commissioner to the Five Civilized Tribes for report and recommendation, a petition of Ella McPhail (nee Burton), praying for the identification of herself and her children, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail and Homer McPhail, as Mississippi Choctaws.

The Commissioner to the Five Civilized Tribes on April 7, 1906, returned the petition to the Secretary of the Interior, inviting attention to Departmental letter of March 20, 1906 (I. T. D 1596-1902, 4226-1905), in reference to the alleged application for the identification of Georgia W. Morrison as a Mississippi Choctaw, and recommended that inasmuch as the two cases were identical, that the petition of Ella McPhail be returned to this office to be considered with and disposed of in conformity with the Department's instructions of March 20, 1906, transmitting the petition of Georgia W. Morrison.

April 12, 1906, William W. Wright, attorney for Mrs. Ella McPhail, filed with the Department a request for the amendment of the original petition filed on behalf of Mrs. McPhail, and that the name of the principal applicant be made to appear thereon as "Mrs. Laura K. McPhail" instead of "Mrs. Ella McPhail."

The Department on May 15, 1906 (I T D 7240, 4907, 4226-1906), returned to the Commissioner to the Five Civilized Tribes the original petition of Mrs. McPhail to be considered with and disposed of in conformity with Departmental instructions of March 20, 1906 (I T D 1596-1902, 4226-1905).

The Commissioner to the Five Civilized Tribes on June 6, 1906, notified Georgia W. Morrison, Durant, Indian Territory, C. C. McCarty, her attorney of record, Durant, Indian Territory, Laura K. McPhail, Beaumont, Texas, her attorney of record, W. W. Wright, Washington, D. C., and Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations, that he would, at his office at Muskogee, Indian Territory, on July 6, 1906, at nine o'clock A. M., hear the testimony of such witnesses as might be presented in support of the petitions for the identification of Georgia W. Morrison and her children and Laura McPhail and her children as Mississippi Choctaws.

There was filed with this office on June 11, 1906, by W. W. Wright, the attorney for the petitioner, Laura K. McPhail, the affidavit of Susan S. Burton, the mother of the said Laura K. McPhail.

June 11, 1906, there was filed with this office by William W. Wright, attorney for the petitioner, a petition of Lillie Margaret Fountain (nee Burton), praying for the identification of herself as a Mississippi Choctaw.

June 16, 1906, there was filed with this office by William W. Wright, attorney for the petitioner, a petition of Mary E. Dees praying for the identification of herself and her children, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katiebelle Dees and Willie W. Dees, and her grandchildren, Tommy W. Dees, Herbut Dees and Sannie D. Wood, as Mississippi Choctaws.

June 18, 1906, there was filed with the Commissioner to the Five Civilized Tribes by William W. Wright, attorney for the petitioner, a petition of Fannie E. Wiltshire (nee Burton), praying for the identification of herself as a Mississippi Choctaw.

June 18, 1906, there was filed with the Commissioner to the Five Civilized Tribes by William W. Wright, attorney for the petitioners, a motion to consolidate the petitions and applications of Laura K. McPhail, et al., Lillie M. Fountain, Mary E. Dees, et al. and Fannie E. Wiltshire, for identification as Mississippi Choctaws, and requesting that the hearing in the case of Laura K. McPhail, et al., set for July 6, 1906, be postponed until August 1st, 1906.

(3)

June 22, 1906, William W. Wright, attorney for the petitioners, Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al. and Fannie E. Wiltshire, requested this office by wire to withhold action on motion for postponement in case of Laura K. McPhail. This was followed by the receipt by this office on June 25, 1906, of a letter of William W. Wright of June 22, 1906, requesting the consolidation of the petitions and applications referred to, but withdrawing the motion in so far as it requested postponement of the hearing upon the petition and application of Laura K. McPhail, et al.

The principal applicants and petitioners in these cases, Georgia W. Morrison, Laura K. McPhail, Lillie Margaret Fountain, Mary E. Dees and Fannie E. Wiltshire, are the children of Susan S. Burton who was identified by a decision of the Commissioner to the Five Civilized Tribes of December 11, 1903, as a Mississippi Choctaw under the provisions of the 14th article of the Choctaw treaty of September 27th, 1830.

-- O R D E R --

It is hereby ordered that the motion of William W. Wright filed with this office June 18, 1906, be granted in so far as it prays for the consolidation of the applications and petitions of Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al. and Fannie E. Wiltshire.

It is further ordered that the application and petition of Georgia W. Morrison, et al. be also consolidated with and made a part of the case above referred to.

It is further ordered that the motion of William W. Wright praying for a continuance in said consolidated case until August 1st, 1906, be and the same is hereby denied, and that the hearing upon the petitions of Georgia W. Morrison, et al. and Laura K. McPhail, et al. proceed in conformity with the notices of June 6, 1906, advising the petitioners, their attorneys, and the attorneys for the Choctaw and Chickasaw Nations, that said hearing will be had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, July 6, 1906, at nine o'clock A. M.

It is further ordered that the hearing upon the petitions of Lillie Margaret Fountain, Mary E. Dees, et al. and Fannie E. Wiltshire be also had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, Friday, July 6, 1906, at nine o'clock A. M., and that notice of such hearing be immediately furnished the petitioners, their attorney William W. Wright, and the attorneys for the Choctaw and Chickasaw Nations.

T A M S B I X B Y

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory,

JUN 29 1906

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
MUSKOGEE, INDIAN TERRITORY,
JULY 6, 1906.

IN THE MATTER of the application of Georgia W. Morrison for the identification of herself and her five minor children, Emma Z., Anna May, Henry B., Frank L., and Fannie H. Morrison, as Mississippi Choctaws, and for the identification of her husband, John F. Morrison, as an intermarried Mississippi Choctaw.

IN THE MATTER of the application for the identification of Laura K. (Ella) McPhail and her minor children, Frank, Myra, Fannie, Grace, Gates, Preston, Virgil, and Homer McPhail, as Mississippi Choctaws.

IN THE MATTER OF THE application of Lillie Margaret Fountain for identification as a Mississippi Choctaw.

IN THE MATTER of the application for the identification of Vary E. Dees and her children, Henry H., Mary E. Wood, George A., Walter T., Edgar R., Oscar E., Fannie E., Katiebelle, and Willie W. Dees, and her grand children, Tenny W. Dees, Herbert Dees and Hammie D. Wood as Mississippi Choctaws.

IN THE MATTER of the application for the identification of Fannie E. Wiltshire as a Mississippi Choctaw.

PROCEEDINGS had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, on July 6, 1906, at 9:00 o'clock a. m., in conformity with notices furnished applicants, their attorneys and the attorneys for the Choctaw and Chickasaw Nations.

APPEARANCES:

W. A. Gibson, Attorney at Law, Muskogee, Indian Territory, representing Georgia W. Morrison, and her five minor children.

William W. Wright, Attorney at Law, Washington, D. C., representing Laura E. (Nila) McPhail, and her minor children, Lillie Margaret Fountain, Mary E. Dees, her children and grand children and Fannie E. Wiltshire

G. Rosenwinkel, appearing on behalf of the Cheatew and Chickasaw Nations.

MRS. SUSAN S. BURTON, being duly sworn testified as follows:

EXAMINATION

BY THE COMMISSIONER:

- Q What is your name? A Susan S. Burton.
Q How old are you? A I am 78 today.
Q What is your postoffice address? A Durant, Indian Territory.
Q Are you the identical Susan S. Burton who made application to the Commission to the Five Civilized Tribes at Meridian, Mississippi, September 13, 1901, for identification as a Mississippi Cheatew? A Yes.
Q Have you been identified as a Mississippi Cheatew? A Yes.
Q Received and selected an allotment as a duly identified Mississippi Cheatew? A Yes sir.

MR. ROSENWINKEL: I want to put an objection in the record. The Cheatew and Chickasaw Nations object to my proceedings in this matter, and state that the records before the Commissioner show that no application was ever made by or on behalf of any of the applicants herein. That no formal application was made for their identification or enrollment prior to December 1, 1906, and that therefore, under the provisions of the Act of Congress approved April 24, 1906, the Commissioner is now without authority to hear or consider the case of the applicants.

THE COMMISSIONER: Objection noted.

BY MR. WRIGHT:

Q What was your husband's name? A Henry D. Burton.

Q How many children do you have living? A Nine.

Q Just give me their names, please?

A John H. Burton,
Fannie H. Burton,
Laura K. Burton,
Mary E. Burton,
Henry David Burton,
Hardy C. Burton,
Cornelia Susan Burton,
Margaret Lillie Burton,
George Wyatt Burton.

Q At the time that you made application, September, 1901,
I believe, were some of these children married?

A Yes sir.

Q Which children were married at that time?

A My oldest son had been married. His wife was dead; and
Mary was the first one to marry after him.

Q That is Mary E. Dees? A Yes sir. And then Laura K.

Q Mrs. McPhail married whom? A Frank McPhail.

Q Mrs. Fountain married whom? A Alice Fountain.

BY THE COMMISSIONER:

Q Who is Mrs. Fountain? A Lillie Margaret Burton.

BY MR. WRIGHT:

Q Your daughter Lillie Margaret Burton married whom?

A Alice Fountain.

Q She married Mr. Fountain? A Yes sir, Alice Fountain.

Q And Laura K. Burton married Frank McPhail? A Yes sir.

Q And Mary E. Burton married whom? A Mr. Dees.

Q Fannie H. Burton married whom? A Steven Wiltshire.

Q Now at the time you gave your testimony, what children
had Mrs. Laura K. McPhail, if any?

A She had Frank, Myra, Fannie, Grace, Gates, Clirfy, her
children.

Q What children had Mrs. Mary E. Dees, if any? *as far*

A She had Hill, Nettie, George, Walter, Edgar and another.

Q I will ask you to look at this list and see if these are
all the children of Mrs. Dees, rather whether you
recall them? (Hands witness a paper).

A Yes that is---Henry H. Dees, the H is for Hill, and Mary H. Wood, that is Estelle. That is all right.

BY THE COMMISSIONER:

Mrs. Burton, did you understand that question you were answering now? A No.

Q What were the names of Mrs. Dees' children living at the time you made application at Meridian. Were any of these children, whose names you were reading, born after that time?

A Tommie, Kateybel, Willie Vert.---Say it was 1901 when I made application?

Q September 13, 1901.

BY MR. WRIGHT:

Q Mrs. McPhail had children living at the time you gave your testimony in this application? A Yes sir.

Q How would you recollect?---Mrs. Burton, do you remember, I will refer to the record. It appears from the record Mrs. Burton, that at the time you gave your testimony you testified as follows:

I now read from the in your original application, the testimony that you gave at that time on page 9:

MR. ROSENWINKEL: What is the purpose of reading that testimony?

MR. WRIGHT: We want to examine into the extent of this application. That is one of the matters referred here by the Department, and in as much as it is in issue I desire to bring out all the facts relative to it.

MR. ROSENWINKEL: It seems to me that the record is the best evidence. I am objecting to the testimony being read to the witness and then have her testify about this evidence.

MR. WRIGHT: That is simply the foundation for something I wish to bring out, and I think it would be better to refer to the record to find out what she had already testified.

BY MR. WRIGHT:

Q You remember the following questions and the answers given?
A I do, some of them.

Q "Have you any children under twenty one years of age and unmarried that you desire to make application for?"

A "No sir".

Q "Your children are all grown?"

A "All grown and married but one, she teaches school".

Q "How old is she?"

A "Well I don't know, I have it here."

Q Now Mrs. Burton, when you answered that question, "I don't know, I have it here", what did you have in mind? What did you mean by that answer when you said "I have it here"?

A I had all their names copied to carry with me; thought may be I could hand in their applications with mine.

Q Did you offer that list? A Yes sir.

Q To the officers taking the testimony? A Yes sir. And they told me I couldn't do it; that they were twenty one and they would have to come and do it themselves. Said he would take the names, though, and put them on record, and I give them to him.

Q You gave him the names of the children at that time?

A Yes sir.

Q Do you remember whom you gave these names to?

A No sir, I didn't know none of the men.

Q What office did he assume to have? Did you know any of the persons asking the questions? A No sir.

Q What did he do with this list? A I don't know; he laid it under some papers; slipped it under some papers which were lying on the table.

Q Was that a complete list of all the children you had at that time? A Yes sir.

Q How did you make that list? A I got the Presbyterian preacher to write it off for me. Took my family Bible to him and got him to write the age and name of----

Q Mrs. Burton there was, continuing this testimony, asked you "The application you are making is simply for yourself?"

A "Yes sir, I want to identify my children". - Yes.

Q At the time you gave this testimony, as you testified before, your children were all married were they. All but Mrs. Fountain, and they had children. Were you acquainted with these children at that time?

A Yes sir.

Q Would you have given the names of these children if the question had been asked you? A Yes sir, all them that was born.

Q You were perfectly willing to give the names if the question had been asked you? A Yes sir.

Q And you could have given the names? A Yes sir.

Q Could you have given the addresses of all these children if the question had been asked you at that time?

A Yes sir, I could have given all the---

BY MR. GIBSON:

- Q Mrs. Burton, you named one of your daughters as Georgia W. Burton, is she married? A Yes sir.
- Q To whom? A Frank Worrison.
- Q Is she here with you to-day? A Yes sir.
- Q Where does she live now? A Durant.
- Q Indian Territory? A Yes.
- Q Do you know how long she has lived in Durant? A She come there last November as two years ago.
- Q She has been living there for more than two years? A Yes.
- Q At the time you made application for identification in 1901 in Mississippi, where was your daughter Mrs. Worrison living? A Living at McComb City, Mississippi, wasn't she?
- Q Living in Mississippi, was she? A Yes sir.
- Q State whether or not her name was one of those you gave to the Commission? A Yes.
- Q Did you give the names of her children and the minors which were then living? A No sir.
- Q Do you know how many children she had living at that time?
- A Two.
- Q Are they still living? A Yes sir.
- Q Is this lady who sits beside you here Mrs. Worrison, the daughter you have identified? A Yes sir.

BY MR. ROSEWINKEL:

- Q You didn't say anything to the Commission about your grand children? A No sir.
- Q A number of your grand children were grown persons at that time? A Yes sir.
- Q You had some great grand children at that time? A Yes, my eldest great grand child was ten years old at that time.
- Q Mrs. Burton, you understand, and know that it is necessary for those grown persons to appear in person before the Commission? A Yes sir.
- Q They knew that also? A Yes sir, they told me that when I went.
- Q When did John E. Burton ever authorize you to appear before the Commissioner?

THE COMMISSIONER: He has been enrolled himself, and made application himself.

BY MR. ROSEWINKEL:

- Q When and where and under what circumstances, did John E. Burton authorize you to appear before the Commissioner and apply for him as a Mississippi Choctaw? A In '92.
- Q In 1892? A He wrote to me to go to Muskogee, and I went.

- Q In 1902? A I think that is when I went. I went two falls.
Q 1902 or 1892, in which years was it John E. Burton authorized you to appear before the Commission? A 1902-03.
Q In 1902 and 1903 is the first time John E. Burton ever authorized you to appear before the Commission for him?
A He wrote to me to know what tribe we belonged to, and I wrote to him the Choctaw.
Q Fannie E. Wiltshire, where was she living when you appeared before the Commissioner? A Living in six miles of Haslehurst, Mississippi.
Q When and under what circumstances did she authorize you to appear before the Commissioner? A Didn't authorize me to.
Q Laura K. McPhail, where was she living when you appeared before the Commission in 1901? A She was living at Abbeville, I believe, in Louisiana.
Q Are you certain about it? A I aint certain. I think that was where she lived. She is here today.
Q When and where and under what circumstances did she authorize you to appear for her before the Commissioner?
A She never authorized me.
Q She never authorized you? A No sir.
Q What about Wary Dees? Did she ever authorize you to appear for her? A No sir.
Q Where did Wary Dees live in 1901 when you appeared before the Commissioner? A I don't remember, she moved about a good deal.
Q Did you know at that time where she lived? A I knew at that time. I don't remember now.
Q How about Hardy Burton, did he ever authorize you to appear for him? A No sir, he got killed at Cleveland, Ohio, on a bridge.
Q When? A 1908.
Q 1908? A Yes sir.
Q Did you have his name on that list you claim to have given the Commissioner? A Yes sir.
Q It was your purpose then to apply for Hardy Burton, who had died a number of years prior to that time?
A Yes sir, I thought I would put in all the names, and may be it would do them some good.
Q How about Cornelia? A Never applied for her.
Q Did she ever authorize you to make application for her?
A No, she had put in hers here. Her husband sent me money to go to Meridian and put in my own application there.
Q She appeared here? A Yes sir---They asked me one day if I had any children that had applied, and I told them K. D. Burton and Cornelia had applied.
Q Then some of these petitioners applied before the time you appeared? A Yes sir. My son and Mrs. Marshall.
Q How about Margaret Lillie Pountin? A She was in Durant.
Q She was in Durant when this conversation started about appearing before the Commission? A Yes sir.
Q She knew it was necessary for her to appear? A Yes sir, that is what they told me.
Q She never authorized you to make any application for her, did she? A No sir.
Q How about Georgia Morrison? A No, her and Lillie put in their names at the same time.
Q That is here recently isn't it? A Two years ago.
Q Two years ago? A Yes sir.

- Q At the time you appeared before the Commission and made these applications, where were Lillie and Georgia living?
- A Georgia lived at McCamb and Lillie lived at Abbeville, Louisiana.
- Q Where were you living at that time? A Five miles of Hazlehurst, Mississippi.
- Q You and all of your children and relatives, all of you understand clearly that it was necessary for you to appear before the Commission in person and apply, didn't you? A Yes sir.
- Q Tell us why it was that these children of yours didn't appear? A They claimed they didn't have the money to spend on it, and didn't think they would get it, and they was afraid to risk it.
- Q They didn't think enough of the claim to spend any money on it? A They didn't have the money to go any wheres on.
- Q They understood clearly it was necessary for them to appear?
- A Yes sir.

MR. WRIGHT: We object to that question, as to what they understood.

THE COMMISSIONER: Objection noted.

BY MR. WRIGHT:

- Q At the time you made application for identification as a Mississippi Choctaw, you had talked this matter over with your children and had discussed the prospects, which you had in conversations with them relative to a claim out in the Indian Territory?
- A Yes sir, we had talked it over a good many times, but they claimed they wasn't able to do anything.
- Q I shall ask you whether any of your children assisted you financially in the presentation of your application?
- A Yes, my son and Mr. Marshall, Cornelia's husband, sent me money from Durant.
- Q Well when you prepared this list of your children--what was the reason you prepared this list? A I thought about it. I never done it until a day or two before I had done it. I thought it might be some advantage to the children. I was going to Hazlehurst and I just took my family Bible along and got the Presbyterian minister to draw it off for me.
- Q Mrs. Burton, referring to the record, which I now quote from, your testimony on page 7, the question was asked "Who is John H. Burton?" (Answer) "He is my oldest son." "Is he living?" (Answer) "No, he died last January was a year, he leaves a daughter, who lives in Hazlehurst."

Q Who was that daughter? A Sallie Marks.

THE COMMISSIONER: That is extraneous to this record. I will have to exclude that. That is a new proposition.

MR. WRIGHT: We wish to say in that connection that the people who are present and who are relatives of this daughter authorized us to prosecute her application, which we assume is pending at the time. It may be that it is not properly consolidated with these petitions, that are already on file; but however, we intend to make an effort to have her application considered at this time. In as much as the record is consolidated with all these matters, it is presumably a matter for consideration at this time, and she is of the very same family.

A (Witness) Yes her mother died, and I raised her from two years old.

MR. WRIGHT: The witness present has probably the best knowledge in regard to this application, she is getting rather old, and I think under all the circumstances it is proper to have her testimony taken at this time in regard to this person, because as a matter of fact all these people who are mentioned in the original record of Susan S. Burton, et al., has been whether or not there is any pending application. In view of that fact I take it that all of the persons whose names are mentioned in that record are applicants and, for the best interest of the whole hearing, necessarily consolidated.

THE COMMISSIONER: Do I understand that the contention of counsel for the petitioners is to introduce evidence on behalf of persons who were not applicants for citizenship in the original record of Susan S. Burton?

MR. WRIGHT: Yes, we claim that the record discloses the fact that the children of Susan S. Burton, whose names are mentioned in the testimony of Susan S. Burton, shows that they were married. It shows that the Commission had notice at the time that they were heads of families, and in view of the rulings of the Department, and having especial reference to the case of Isaac La Floro, it was the duty of the Commission at that time, in as much as the name of the individual is mentioned, and it also appearing that they were of the family, it was the duty of the Commissioner to pursue the inquiry further.

As a matter of fact in the testimony of Mrs. Burton, when an attempt was made to pursue the question further she was interrupted and she was prevented from giving the names of these children by the act of the Commissioner himself. Therefore, we take the position that it is not necessary for us to prove that the names of these grown children were specifically mentioned in the record.

In regard to John E. Burton-----

MR. ROSEWINKEL: Whatever the Secretary or the Commissioner may have held prior to the passage of this Act, that now neither the Secretary or the Commissioner have authority to inquire into these things unless certain conditions exist. It was necessary that a formal application must have been made.

MR. WRIGHT: I don't think it is formal.

MR. ROSEWINKEL: Well, application. She says that she wants to identify her children, and there the subject is dropped. She testifies now that she didn't know where her children lived at that time. They never all authorized her to appear for them.

BY MR. WRIGHT:

Q Where is she living today?

MR. ROSEWINKEL: That is objected to, for the reason that the person referred to is not a petitioner before the Commissioner in this case.

BY MR. WRIGHT:

(To witness) Now answer.

MR. ROSEWINKEL: What is the ruling of the Commissioner?

THE COMMISSIONER: What is the purpose of this testimony?

MR. WRIGHT: I think that it is the duty of the Commissioner to take this testimony in this case for the identification of this daughter, and it may be that the Commissioner later on will rule that the case involves a different point from the other children whose contentions are being litigated. But it is necessary to get

this is the record before the Commissioner can intelligently pass upon the record; and to preserve the evidence of Mrs. Burton, who is a very aged witness, and whose testimony may not be available.

THE COMMISSIONER: Can Mrs. Burton testify any more than she has testified? Simply that this girl is the daughter of John E. Burton, her dead son.

BY MR. WRIGHT: We want to ask her about two more questions.

Q Mrs. Burton is this daughter of John E. Burton's you are testifying of, married or single?

MR. ROSEWINKEL: We renew our objections and give the same reasons as heretofore stated.

THE COMMISSIONER: I will have to sustain the objection there, because this one has not made any claim whatever. This is for the purpose of identifying the daughter of John E. Burton, deceased. The witness has simply testified to everything in her knowledge.

BY MR. WRIGHT:

Q Now Mrs. Burton, has this daughter of John E. Burton any children? A Yes sir.

MR. ROSEWINKEL: Objected to.

THE COMMISSIONER: Objection sustained. We will sustain an objection to that.

MR. WRIGHT: I want it to go in the record that I have attempted to identify this daughter of John E. Burton, and her children, if she has any. I now offer to prove by this witness, Susan S. Burton, that John E. Burton who is referred to on page seven of the testimony of Susan S. Burton, et al., Mississippi Game Law applicants, has a daughter who is now residing in Fernwood, Mississippi, and that her name is Hallie V. Burton-- the wife of whom? (Addressing Mrs. Burton).

(12-)

THE COMMISSIONER: Wait a minute. You are getting testimony in there.

BY MR. WRIGHT: - - -

Q And that she has a number of children --
A (Witness) - Five,
Q all Minors, whose names the witness now offers to give.

MR. ROSENWINKEL: Testimony objected to for the reason that the persons named are not parties to this cause.

BY MR. WRIGHT:

Q Mrs. Burton, are Mrs. McPhail and Mrs. Fountain present today in Muskogee? A Yes sir.

(Witness dismissed).

MRS. GEORGIA W. MORRISON, being duly sworn testified as follows:

BY THE COMMISSIONER:

Q What is your name? A George W. Morrison.
Q Georgia or George? A George.
Q You are a female, are you not? A Yes sir.
Q How old are you? A Twenty six.
Q Where do you live? A Durant, Indian Territory.

BY MR. GIBSON:

Q Where do you live? A Durant, Indian Territory.
Q How long have you lived at Durant? A Two years.
Q In what month and year did you move there to live?
A I don't believe I just know the month.
Q What relation are you to Mrs. Susan E. Burton who has just testified in this case? A I am her daughter.
Q Are you married? A Yes.
Q What is your husband's name? A Frank Morrison.
Q Are you living with him at Durant? A I am.
Q Before coming to Durant, where did you live? A Houston, Texas.
Q For how long? A Three years.

- Q And before that where did you live? A Mississippi.
Q Have you any children? A I have.
Q How many? A Five.
Q Give their names and ages, beginning with the oldest?
A Emma Z. Morrison, 10 years old,
Q Ten years old? A Yes sir
A Anna Morrison.
Q Age? A Eight years old.
A Henry Burton Morrison, five years old,
Frank Wirt Morrison, three years old,
Fannie Hazel Morrison, one year old.
Q After coming to Indian Territory, state whether you made application to the Commissioner to the Five Civilized Tribes for enrollment as a Mississippi Choctaw?
A We did.
Q Who represented you in your application, what agent or attorney? A Mr. McCarty.
Q Do you know about when that application was made?
A I don't know the date, over a year ago.
Q Have any of your children been born since 1901? A Yes.
Q Which ones, if any? A I have three born.
Q Three born during the past five years? A Yes sir.
Q That would be---? A Henry Burton.
Q Henry was born in what month? A March.
Q 1901? A Yes sir.
Q Then you have only two born in the past five years?
A Yes sir.
Q Frank L., when was he born? A He was born in 1902.
Q And Fannie, the baby? A In 1905.
Q 1905? A Yes sir.

MR. GIBSON: Mr. Bell, we want to make reference to the letter of the Commissioner dated July 21, 1906, to C. C. McCarty, Durant, Indian Territory, who this witness has testified was her attorney and representative at that time. The letter acknowledges the receipt of the application for the identification of this petitioner as a Mississippi Choctaw.

MR. ROSENWINKEL: I am willing that the letter shall go in.

CROSS EXAMINATION

BY MR. ROSENWINKEL:

- Q This application made by C. C. McCarty, about a year ago was the first application ever made by you or in your behalf for identification as a Mississippi Choctaw?
A We applied to the Dawes Commission and to the Secretary of the Interior.
Q When was it that you applied to the Secretary and the Dawes Commission? A Two years ago. The first year after I come here.

- Q Prior to this time Mr. McCarty wrote the Commission?
A Yes sir.
Q The application that you made two years ago to the Secretary and the Daves Commission, I will ask you if that was the first application of any character ever made by you or in your behalf? A My mother tried to apply for us, but she was turned down, they said she couldn't do it.
Q She didn't make any application?

MR. WRIGHT: The Secretary said she did.

BY MR. ROSENWINKEL:

- Q Did you authorize your mother to make application for you?
A It was understood she was doing what she could for us.
Q Did you ever tell her or go with her before the Daves Commission and apply for you? A No sir.
Q As a matter of fact you don't know just when she went to the Daves Commission, do you? A No sir.
Q Where were you living at the time she went before the Daves Commission? A In Beaumont.
Q In Beaumont? A I have been in Beaumont over six years.

(Witness dismissed).

MRS. LAURA K. McPHAIL, being duly sworn testified as follows:

BY THE COMMISSIONER:

- Q What is your name? A McPhail.
Q What is your age? A Forty eight.
Q Where do you live? A Beaumont, Texas.

BY MR. WRIGHT:

- Q How long have you lived in Beaumont, Texas? A Well, about ten years.
Q Where did you live prior to that time? A I came from Harlehurst, Mississippi to Orange, Texas, and lived two years, then moved to Beaumont.
Q Have you children, Mrs. McPhail? A I have eight.

- Q Please give their names and ages, beginning with the oldest.
Give it slowly so it can be taken down.
- A Frank McPhail, 25 years old. He is married and has one child.

MR. WRIGHT: What is the name of that child?

MR. ROSEWINKEL: As a rule, I understand that the Commissioner in proceedings of this kind holds that it is necessary to file a petition, and the Nations object to this testimony, for the reason that no petition has been filed for this one.

MR. WRIGHT: I think it might just as well go in with the petition of Mrs. McPhail herself.

MR. ROSEWINKEL: We will object to considering any person except those mentioned in the petition.

THE COMMISSIONER: The hearing will be confined to the allegation contained in the petition under investigation.

MR. WRIGHT: You overrule my offer to identify the children and grand children of Mrs. McPhail?

THE COMMISSIONER: Yes.

BY MR. WRIGHT:

- Q Just go on?
- A Myra McPhail, 23 years old,
Fannie McPhail, 21 years old.
Greta McPhail, 19 years old.
Gates McPhail, 17 years old,
Fresten McPhail, 15 years old,
Virgil McPhail, 10 years old,
Homer McPhail, 8 years old.
- Q Where do these children live? A All live in the house with me, except the eldest one, married. The rest are all single.
- Q Live in the City of Belmont? A Yes.
- Q Have you ever applied for identification as a Mississippi Cheater? A Not until I applied through our attorney here last year.
- Q Do you remember on or about the time Mrs. Susan S. Barton appeared before the Commission for identification as a Mississippi Cheater? A The first time?

- Q Yes? A Why yes, I remember it. I can't remember the time. I suppose about 13 years ago, probably. I don't think I could give the date, my recollection it has been that long.
- Q Did you talk with your mother, Mrs. Susan S. Burten, in regard to the Indian Territory claims of the family? Prior to the time she made application? A Yes, we had talked about it before I left Mississippi, before she made the first trip.
- Q What understanding was there, if any, in regard to any application in your behalf? A We were told and taught that if mother went through we would all follow, and of course we all waited for her to identify, thinking that we would be allowed the same afterwards. But as she failed, we took no further steps in regard to the matter. Didn't suppose it would do any good.
- Q You understood that your mother had been rejected, or was some complication in regard to her enrollment?
- A Yes, that was what we understood about it.
- Q Now, going back to about the year 1901, do you recall having any conversation with your mother in regard to her application? A Yes, we talked of it every time we were together, and still thought we might come in.
- Q Did you contribute anything towards the expense?
- A Yes sir, we helped her as she come through Beaumont on her way out same.
- Q Did you understand that an application was to be made for you by your mother?

MR. ROSENWINKEL: We object to what her understanding was as to what should be done.

BY THE COMMISSIONER: Now to get this record straightened out.

- Q You say that Mrs. Burten stopped at Beaumont on her way to make application? A Yes sir.
- Q When was that? A I don't know exactly the date.
- Q Where was Mrs. Burten living at that time?
- A Natchez, Mississippi. Come from Natchez to Beaumont.
- Q Where was she going? A Coming to Indian Territory.
- Q For what purpose? A To see about this land.
- Q Wasn't that after her rights had been determined?
- A No sir.
- Q You know when Mrs. Burten made her application?
- A I can't say that I do.
- Q Know where she made it? A I don't know. She come to Beaumont and went some where else, I don't know where she went.

BY MR. WRIGHT: (Repeating his last question)

- Q Did you understand that an application was to be made for you by your mother? A I did.

MR. ROSEWINKEL: What was the ruling on that question?

THE COMMISSIONER: Objection sustained as to what her mother was going to do.

BY MR. WRIGHT:

- Q Did you authorize your mother to make any kind of an application for you at the time she made application for herself? A I wasn't with her. It was always understood that when mother went through, we went through. When she said her going through would put us through.
- Q Was it understood that your names should be given in at that time? A Yes sir.

BY MR. ROSEWINKEL:

- Q When was the first time you talked to your mother about this matter, at the time she passed through Beaumont?
- A No. That time about 13 years ago. I was then in Mississippi. She talked about coming out here to see-- Coming out here.
- Q Now 13 years ago, your mother or some one for her, did come to the Territory, did they? A Nether came herself.
- Q She went to the Choctaw Tribal Council at that time?
- A I don't know--she.
- Q What is your understanding? A I understood that she tried to get the land.
- Q That was a separate and distinct matter. Your understanding that has nothing to do with applying to the Dawes Commission for identification as a Mississippi Choctaw-- You understand that, don't you? A Yes sir.
- Q Taking up the history of this case. When was the first time that you and your mother had a conversation about her application for identification as a Mississippi Choctaw? When and where and under what circumstances?
- A Well, she came through Beaumont and said she was coming to the Territory to my sister's and brother's, and they was going to try again for the land.
- Q From the time she came here in 1893 up to the time she passed through Beaumont, you had no conversation with her about the matter? A No sir, I don't think it was mentioned any more.
- Q Don't you know, as a matter of fact, that she was in about the summer of 1893, when she passed through Beaumont on her way to the Territory? A Yes sir.
- Q Then your statement now that the first time you ever spoke to her about the matter was in the summer of 1903, when she was on her way to the Indian Territory?
- A Yes, I think that was the first time since--

- Q Then the money that you gave your mother, Mrs. McPhail, was to defray her expenses to come to the Indian Territory to get her land and to prepare her citizenship case?
- A It was to help her.

BY MR. WRIGHT:

- Q Mrs. McPhail, do you remember when your mother made application at Meridian, Mississippi, about the year 1901, for identification as a Mississippi Choctaw?
- A I only remember they wrote to me about it. They wrote me about her going there. She did herself, perhaps. I know nothing only what I heard her say.
- Q How long prior to that time had you seen Mrs. Burton?
- A I suppose it had been four or five years, I can't say for certain.
- Q Where were you living when you contributed this money to aid her? A In Beaumont.
- Q How long had you lived there at that time? A I had lived there I suppose about six years. We have been there about ten years.
- Q As a matter of fact then, this money must have been given Mrs. Burton about the year 1901?
- A I expect it was. I am not certain. She came through in July and stayed a month or two, and went on to Durant I think it was in October or November.
- Q You were evidently mistaken about a conversation 13 years ago? A I told you it was 12 or 13 years ago before I left Mississippi. I could have written down the dates. I didn't know it was necessary. That was the year before I left Mississippi, and I have been away from there about 12 or 13 years.

BY MR. ROSENWINKEL:

- Q A few minutes ago, in response to my question, you stated that according to your best judgment it was in the fall of 1903 that your mother, Susan S. Burton, passed through Beaumont, and that at that time you gave her money to assist her in coming out to the Territory, and just now you state it was in 1901. Which date was it?
- A I told you I didn't remember the date. If I had to state the dates, I couldn't tell you to save my life.
- Q You are certain it was when Mrs. Burton was on her way to the Indian Territory? A Yes, I am certain about that.

BY MR. WRIGHT:

Q All of your children are still living, whose names you have given? A Yes, my children are all living.

MR. WRIGHT: In regard to the attempted application for the daughter of John E. Burton, I now wish to make the same sort, the same remarks as was attempted to be made by the witness Susan S. Burton.

THE COMMISSIONER: Do I understand an attempt to prove by this witness something that would be out of her knowledge? This woman has never made any application or testified prior to this date.

MR. WRIGHT: I offer to identify by this witness the daughter of John E. Burton.

THE COMMISSIONER: The hearing will be confined strictly to the hearing of the allegations of the petition.

(Witness dismissed.)

MRS. LILLIE MARGARET FOUNTAIN, being duly sworn testified as follows:

BY THE COMMISSIONER:

Q What is your name? A Mrs. Lillie W. Fountain.
Q Your age? A 38 years old, last day of June.
Q Your postoffice address? A Right near at Durant. I live at Euclid, Texas.
Q Where did you live prior to going to Durant? A Euclid, Texas.
Q How long have you been living in Durant?
A Just come there for this week. I moved to Durant the 18th day of November, 1904 for the purpose of getting my claim to property and make my application here at Durant.
Q You are living in Durant now? A No sir, I am not living in Durant now. My home is at Euclid.
Q Are you married? A Yes sir.
Q What is your husband's name? A G. Fountain.

- Q Have you any children? A No sir.
- Q Are you the daughter of Mrs. Susan S. Burton who has testified here? A Yes sir.
- Q Do you remember on or about the year when Mrs. Burton made application to be identified as a Mississippi Choctaw? Do you remember the event? A About 1901?
- Q Yes? A Yes sir.
- Q Or about the time she made application? A The last time? Yes.
- Q The first or last time? A Yes sir.
- Q How long have you been living in Humble, Texas?
- A I went there from Durant the 15th day of May, 1905, to Humble, Texas.
- Q Did you visit Mrs. Burton about the year 1901 or 1903, or have you seen her or conversed with her at all, about those times?
- A Yes sir. I was living at Sour Lake in 1903, when she passed through going to Durant to make application. She spent a week with me in Sour Lake, Texas.
- Q Have you ever made application for identification as a Mississippi Choctaw, Mrs. Fountain?
- A I did. I tried to in 1904 or 1905.
- Q What success did you have? A Why, it was very little. I wrote the Secretary of the Interior and the letter was referred to the Dawes Commission, and the Dawes Commission informed me in another letter that the rolls were closed and I was too late. On the 13th day of January, 1905, there was an enrolling committee come to Durant enrolling babies and delinquents.
- Q January, 1905? A The 13th of January, 1905.
- Q Did you appear before that Committee? A I appeared before that Committee for enrollment.
- Q Were you enrolled? A They refused at first, and then through the influence of the lawyer they took our names.

THE COMMISSIONER: The Commissioner had no appointment of any character during the month of January, 1905 at Durant.

BY MR. WRIGHT:

- Q Before whom did you go in Durant? A They claimed it was a Committee of the Dawes Commission. I don't know what it was. Just what the paper said.

MR. WRIGHT: I desire to introduce at this point two letters received from, one from the Chief Clerk of the Interior Department and another from the Commissioner to the Five Civilized Tribes. The first dated December 6, 1904, and December 10, 1904, respectively, showing that this applicant had correspondence with the Commissioner to the Five Civilized Tribes in regard to her claim. (Said letters appear in the petition of Mrs. Lillie Margaret Fountain and the same are marked Exhibits "A" and "B", and attached thereto.

(Witness) That is the letter. (Referring to the letter dated April 15, 1905 - I T D 3409-1905).

MR. WRIGHT: I also desire to offer in evidence letter from the Assistant Secretary of the Interior dated April 15, 1905. (Letter is attached to original copy of testimony of Mrs. Lillie Margaret Fountain of this date, and marked Exhibit "A".)

BY MR. WRIGHT:

- Q Mrs. Fountain, at the time you had the conversation with your mother, Mrs. Burten was anything said in regard to her claim in the Indian Territory, and your claim and the claims of the family?
- A Yes sir, we spoke of that; that my brother John E. Burten had his claim, that is he had land. We supposed he had it and settled on it. And she thought we would all get our land here through her application.

MR. ROSENWINKEL: We move that all of the answer of the witness be excluded, on the ground that the witness has simply related in regard to what her mother told her and as to what she thought.

MR. WRIGHT: She is telling us what she thought.

MR. ROSENWINKEL: That would be equally incompetent.

THE COMMISSIONER: Objection noted.

BY MR. WRIGHT:

- Q Now do you remember talking the matter of these claims over with Mrs. Burten, your mother, before the time she made application, and while her case was being litigated, being tried---Did you have any conversation with her? A Before?
- Q Yes, before she made---?
- A Yes sir, we have often talked about getting us a home, and when we would meet. We thought if Mother received her land we would get ours, too.
- Q Did she ask you to put her name in at the time she made her application? A Yes sir.
- Q Now Mrs. Fountain, are you acquainted with Mrs. Laura K. McPhail---Is she your sister? A Certainly.

- Q Are you acquainted with the members of her family?
A I think I ought to be. Yes.
Q I will read you the names of her children, and I wish you to tell me if you knew them,
Q Frank W. McPhail? A Yes sir.
Q Myra McPhail? A Yes sir.
Q Grace McPhail? A Yes sir.
Q Gates McPhail? A Yes sir.
Q Preston McPhail? A Yes sir.
Q Virgil McPhail? A Yes sir.
Q Homer McPhail? A Yes sir.
Q Do you know whether or not any of them are married?
A The oldest, Frank, is married.
Q You have seen all these children, have you? A Yes sir.
Q Are they living? A Yes sir, all living.

BY MR. ROBEWINKEL:

- Q When did your mother first make application to the Commission for identification as a Mississippi Choctaw?
A Thirteen years ago, I think.
Q At that time did you authorize her to apply for your identification also? A Yes sir.
Q You did? A Yes sir.
Q Just when, where and under what circumstances was it?
Q Can you recall the particular time?
A I can't give you the exact time, the particular time.
Q Where was it? A Meridian, Mississippi.
Q Thirteen years ago at Meridian, Mississippi, you told your mother to apply for your identification?
A I wasn't there.
Q I am not saying anything about that. I asked you when it was? A You asked me if I was making application.
Q Listen: I asked you whether or not you, yourself, authorized and directed your mother to apply for your identification. Whether you told your mother to go to the Commission and apply for you. Now you say that you did, and you say 13 years ago at Meridian, Mississippi? Is that right?
A I don't know whether it was 13 years ago. I knew that she made application. I don't know exactly when it was.
Q When did you authorize her to apply for you?
A When she came through going----.I think about 13 years ago when she made application, it was understood that she applied for all her children.
Q When did you first authorize her to apply to the Dawes Commission for you? A About 13 years ago.
Q You are positive about that? A Yes sir.
Q What other---When was the first time you authorized her to apply for you? A When she came through Sour Lake in August, 1903, on her way to Durant to make application.
Q That was the first time? A Yes, next time.

- Q Mrs. Fountain -- is that your name?--- Don't you know that 13 years ago the Dawes Commission was not hearing applications of any kind? A I don't know what Commission it was.
- Q I asked you, if you don't know of your own knowledge, that the Dawes Commission did not receive applications of any character 13 years ago? A I don't know.
- Q Why did you say that your mother appeared 13 years ago and applied to the Dawes Commission for your identification? A Did I say that I authorized her to apply to the Dawes Commission?
- Q Yes? A If I did, I said that she made application about 13 years ago, and I don't know whether it was to the Dawes Commission or not, or what Commission it was.
- Q When she came to Sour Lake on her way to Durant, how long had it been prior to that time since you had seen her-- How many years? A Well, she was in Orange Texas. It had been three or four years since I saw her as well as I remember.
- Q Three or four years before that? A Yes sir. She came to Orange and stayed quite awhile, and then she came to Louisiana. And then she came on her way on to Orange and stayed a month. I think it was about three or four years ago.
- Q Just what was said then between you and your mother? Did you say to her that you wanted her to apply to the Dawes Commission and apply for your identification when she was at Sour Lake the last time?

MR. PARKER: At Orange?

BY MR. ROSENWINKEL:

- Q In that same neighborhood? A I don't remember that I did.
- Q Nothing said about that application at that time?

MR. WRIGHT: When she said that she told her to apply---

BY MR. ROSENWINKEL: I asked her and she said she didn't.
I am examining the witness now.

- Q Did you either at Sour Lake or at Orange at the time your mother passed through from Mississippi, via these places that were just mentioned to the Territory ask her in so many words to go before the Dawes Commission and apply for your identification as a Mississippi Choctaw?
- A I did at Sour Lake, when she passed through there in 1903.
- Q That was in the fall of 1903? A In August.
- Q In August, 1903? A Yes.
- Q That was the first time you ever asked your mother, and only time from the time that she first appeared before the Commission up to August, 1903, to apply for your identification?

- A That was the first time that I asked her pointedly to do it, but we had understood it when we were children.
Q I don't care to know about your understanding.

BY MR. WRIGHT:

- Q Mrs. Fountain, you have understood the attempts made by your mother to be enrolled and recognized as a member of the Choctaw Nation for several years past, haven't you? Do you remember whether she made any attempt ten, twelve or fifteen years ago to be admitted by the Choctaw Council, for yourself and others related to you?
A I suppose it was the Choctaw Council, 13 years ago.
Q Now in your conversations, often, as far back as her attempts to be admitted by the Council have you understood, had the understanding with Mrs. Burton that your name would be presented when an opportunity offered? A I have. I understood my name would be presented with the others, all her children.
Q What names---Your name, you have reference to? A I suppose that she presented the other children when she did--
Q You had talked with others in regard to the claim of your family in the Choctaw Nation? A We often talked of it.

MR. WRIGHT:

IN THE MATTER of the application for the identification of Fannie E. Wiltshire.

- Q You know Mrs. Fannie Wiltshire? A Yes sir.
Q Is she a sister of yours? A My eldest sister.
Q Where does she reside? A In Mississippi.
Q When did you last see Mrs. Wiltshire personally?
A Been 12 or 13 years ago.
Q Do you correspond occasionally? A Yes sir.
Q Are you familiar with her writing? A Yes sir.
Q Just look at that signature, please, down at the bottom, and see if that is Mrs. Wiltshire's signature?
A Yes sir, that is her signature.

MR. WRIGHT: We offer now the affidavit of Mrs. Wiltshire in this petition signed by Mrs. Wiltshire.
(Petition is attached to original copy of testimony of Mrs. Lillie Margaret Fountain of this date, marked Exhibit "B".)

MR. ROSENWINKEL: What is the purpose of offering that?

MR. WRIGHT: Part of the attempt to identify them. I am going to identify Mrs. Wiltshire to be the one named by the petition, showing that she is this petitioner as a matter of fact, and now I propose to introduce her petition. (Petition previously introduced marked Exhibit "B").

THE COMMISSIONER: That seems to be an encumbrance to the record.

MR. ROSEWINKEL: I don't object to the petition going in the record, except I would object to its going in as testimony.

MR. WRIGHT: I don't introduce it as---I simply want to show she is identified here as the applicant in the paper filed for her.

BY MR. WRIGHT:

- Q Has Mrs. Wiltshire any children? A She has not.
- Q She is still living? A Yes sir.
- Q Is she your younger sister? A My oldest sister.
- Q Oldest sister? A Yes sir.

MR. WRIGHT: I offer to identify Mrs. Mary E. Dees.

THE COMMISSIONER: Is she here?

MR. WRIGHT: She is not here.

- Q Mrs. Fountain, do you know Mrs. Mary E. Dees? A Yes sir.
- Q Where does she reside? A She lives in Mississippi.
- Q Is she a relative of yours? A My sister.
- Q Full sister? A Yes sir.
- Q Daughter of Mrs. Susan E. Burton? A Yes sir.
- Q When did you see Mrs. Dees last? A About fifteen years ago.
- Q Fifteen years ago? A Yes sir.
- Q When did she marry? A She married William Dees.
- Q Was she a family? A Yes sir.
- Q Do you know how many children she has? A She has eight the last I know of her. I think she has more than that now, I am not certain.
- Q Would you know the names of those children if you heard them read? A I would know the names of all of them before I left there than I kept up with.

THE COMMISSIONER: Let the witness state the names.

BY MR. WRIGHT:

- State the names:
- A Will Dees,
Estell Dees,
George Dees,
Walter Dees,
Edgar Dees,
the other names I don't know.
- Q You have personal knowledge of the names of the children that you have given? A Yes sir.

BY MR. ROSEWINKEL:

- Q It has been fifteen years since you have seen any of these Dees people, hasn't it? A About that time.
- Q You have no personal knowledge whether they are living now or not? A No sir.

(Witness dismissed).

MRS. LAURA K. McPHAIL, recalled.

BY MR. WRIGHT:

- Q Mrs. McPhail, do you know Fannie E. Wiltshire?
- A My eldest sister.
- Q Do you know Susan S. Burton? A Yes sir.
- Q Where does she reside--What state? A She is in Mississippi, Houlston, I believe she is still at Houlston.
- Q When did she marry? A Steven Wiltshire.
- Q Any children? A Never had any children.
- Q Still living? A Yes sir.
- Q Do you know Mrs. Mary E. Dees? A Yes sir.
- Q What relation is she to you? A My sister, yes sir.
- Q Full sister? A Yes sir.
- Q Daughter of Mrs. Burton? A Yes sir.
- Q What state does she reside in? A She is in Mississippi.
- Q When did she marry? A W H Dees.
- Q When did you see Mrs. Dees last? A Haven't seen her in 13 or 14 years, since I left Mississippi.
- Q Has she any children, to your knowledge? A Yes.

- A I believe there is nine.
- Q Have you seen any of these children? A Yes, I have seen five of them.
- Q Could you give their names? A Yes sir, Henry Hill is her oldest; Hill is the oldest boy, -and Estell is the oldest daughter, and George and Walter, and I believe the next one is named Robert. She had a little baby when I left. A little girl, the other three children, I don't know them.

(Witness dismissed)

MRS. SUSAN S. BURTON, recalled:

BY MR. WRIGHT:

- Q Mrs. Burton, when did you last see Mrs. Mary E. Dees, your daughter? A Some time last December.
- Q Last December? A Yes sir.
- Q Are you acquainted with her children? A Yes sir.
- Q Could you give the names of all her children who were living at the time you were there last December? A Yes sir.
- Q Give them from your recollection? A Yes sir; Hill Dees.
- Q He is also known as Henry E. Dees? A Yes sir.
- Q Do you know his age? A No sir; Mary E. Wood.
- Q Her name is now Wood? A Yes sir; George.
- Q Do you know her age (Referring to Mary E. Wood)? A No sir.
- Q When did Mary E. Wood marry? A Carry Wood.
- Q Where does she reside? A In Mississippi City, Mississippi.
- Q Has Mary E. Wood any children? A Has one.
- Q What is the name of that child? A I don't remember.
- Q A baby? A It is about, I don't remember.
- Q Could you remember the name if the name was pronounced? A I don't know as I could.
- Q Is the name Sammy? A I believe that is the name. It is named after his grand pa Wood, and his name is Sam Wood.
- Q Do you know about what age the child is? A It is over a year old.
- Q Give the other children we have now, after Henry E. and Mary Wood. Proceed with the other members of Mrs. Dees' family?
- A George.
- Q Do you know his age? A Yes sir; he is 22.
- Q Next one?
- A Walter.
- Q How old is he? A I don't recollect.
- Q About his age? A I reckon 16 or 17.
- Q Next one?
- A Agnes.
- Q Age? A 12 or 13.

Q Next one?
A Oscar; about two years younger.
Q Making him about 12 years old? A Yes sir.
Q And the next one?
A Fannie; 10 years old.
Q Next one?
A Kateybell; about 8 years old.
Q Next one?
A Willie Vert.
Q Age? A About five.
Q Referring to Henry H. Dees, is he single? A No he is
married.
Q Married? A Yes.
Q Has he any children? A Yes sir, has two boys.
Q About how old are they? A The oldest is four years old.
Q Do you know their names? A Thomas is the oldest one.
I don't remember the other one, I knowed it but I
don't remember.
Q Would you recall it if mentioned? Was it Herbert?
A I believe that is it.
Q All of these children you have mentioned are still living?
A Yes sir. Bill Dees is in Memphis, Tennessee.

(Witness dismissed).

MR. WRIGHT: For the purpose of making the record as complete as possible, I now desire to offer the affidavit of Mary E. Dees, an applicant, at this hearing, setting forth the names of her children, their ages and, in a general way, the family tree.

MR. ROSEWINKEL: Objected to, and state that it is an ex parte affidavit, taken without notice to the Attorneys for the Choctaw and Chickasaw Nations.

Affidavit of Mary E. Dees, above referred to, is attached to the original copy of the testimony hereof, marked Exhibit "C".

MR. WRIGHT: I desire to offer the affidavit of Henry H. Dees, who appears to be the only married son of Mrs. Dees, and giving in general the family tree of the family, and particularly the names and ages of his two children.

MR. ROSEWINKEL: To which the Nations object, for the reasons heretofore stated.

THE COMMISSIONER: Objection noted.

Affidavit of Henry N. Deas, above referred to, is attached to the original copy of the testimony hereof, marked Exhibit "D".

MR. WRIGHT: I also desire to introduce the affidavit of Mrs. Fannie E. Wiltshire.

MR. ROSENWINKEL: Objected to for the same reasons as the other two.

Affidavit of Mrs. Fannie E. Wiltshire, above referred to, attached to original copy of testimony hereof, marked Exhibit "E". (Same exhibit as is introduced on page 24 of testimony hereof.)

I, E. T. Wright, stenographer to the Commissioner to the Five Civilized Tribes, on oath state that I recorded the proceedings in full had in the above named cause, and that the foregoing is a true and correct transcript of my stenographic notes thereof.

E. T. Wright

Subscribed and sworn to before me this the 15th day of July, 1906.

W. H. Hains

NOTARY PUBLIC.

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M. E. R. 3647

Muskogee, Indian Territory, July 12, 1906

William W. Wright,

Circoram Building,

Washington, D. C.

Dear Sir:

There is herewith enclosed copy of the testimony taken before this office July 6, 1906, in the matter of the alleged application for the identification of Georgia W. Morrison, et al., Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire, as Mississippi Choctaws.

Respectfully,

TAMM BILBY

Commissioner

McM 12/1

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M C R 7439

Muskogee, Indian Territory, July 30, 1906.

Parker & Hefner,
Attorneys at Law,
Beaumont, Texas.

Gentlemen:

Receipt is hereby acknowledged of your letter of the 23rd instant, enclosing petition for enrollment of Grace, Gates, Preston, Virgil, and Homer McPhail, children of F. M. and Laura K. McPhail, as citizens of the Choctaw Nation under the Act of Congress approved April 26, 1906.

This application will be made a part of the record in the matter of the application for the identification of Laura K. McPhail as a Mississippi Choctaw.

Respectfully,

JAMES HILBY

Commissioner.

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M. C. R. 7439

Muskogee, Indian Territory, July 30, 1906.

Deward S. Parker,
Attorney at Law,
Beaumont, Texas.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 24th instant, requesting to be advised as to what disposition has been made of the application for the identification of Laura K. McPhail, et al. as Mississippi Choctaws, said application being connected with that of Susan S. Burton, et al.

In reply you are informed that no disposition has been made of this application up to the present time. When a decision is rendered therein you will be duly notified.

Respectfully,

T. A. S. HILBY

Commissioner.

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Copy

O.L.J.
L.B.A.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

-10:-

In the matter of the alleged application for the identification of George W. Morrison, et al., as Mississippi Choctaws.

-: D E C I S I O N :-

- - -

The Department on March 20, 1906 (I.T.D. 1896-1902, 4226-1905), transmitted to the Commissioner to the Five Civilized Tribes a petition filed with the Department on December 15, 1905, by George W. Morrison (nee Georgia W. Burton), praying for the identification of herself and her minor children, Emma E., Anna May, Henry V., Frank L. and Fannie H. Morrison as Mississippi Choctaws, and for the identification of her husband, John E. Morrison, as an intermarried Mississippi Choctaw.

The Department, in returning said case to the Commissioner to the Five Civilized Tribes, invited attention to the record in the consolidated Mississippi Choctaw case of Susan E. Burton, et al., (M.C.R. 3847), and expressed the opinion that from said record it was apparent that prior to March 25, 1903, application was attempted to be made, but was refused, on behalf of George W. Morrison, for her identification as a Mississippi Choctaw, and directed that she be permitted to submit proof of her right to be so identified.

Under date of February 26, 1906, the Department referred to the Commissioner to the Five Civilized Tribes for report and recommendation, the petition of Ella McPhail (nee Burton), praying for the

identification of herself and her children, Frank, Myra, Fannie, Grace, Gates, Preston, Virgil and Homer McPhail, as Mississippi Choctaws.

The Commissioner to the Five Civilized Tribes, on April 7, 1906, returned said petition to the Secretary of the Interior, inviting attention to Departmental letter of March 20, 1906 (I.T.D. 1596-1902, 4226-1905), in reference to the alleged application for the identification of George W. Morrison as a Mississippi Choctaw, and recommended that inasmuch as the two cases were identical, that the petition of Ella McPhail be returned to this office to be considered with and disposed of in conformity with Departmental instructions of March 20, 1906, remanding the petition of George W. Morrison.

April 12, 1906, W. W. Wright, attorney for Mrs. Ella McPhail, filed with the Department a request for the amendment of the original petition filed on behalf of Mrs. McPhail, and that the name of the principal petitioner be made to appear therein as "Mrs. Laura K. McPhail" instead of "Mrs. Ella McPhail."

The Department on May 15, 1906, (I.T.D. 7249, 4937, 4226-1906), returned to the Commissioner to the Five Civilized Tribes the original petition of Mrs. McPhail to be considered with and disposed of in conformity with the Department's instructions of March 20, 1906 (I.T.D. 1596-1902, 4226-1905).

The Commissioner to the Five Civilized Tribes, on June 6, 1906, notified George W. Morrison of Durant, Indian Territory, U. S. McCarty, her attorney of record, Durant, Indian Territory, Laura K. McPhail, Beaumont, Texas, her attorney of record, W. W. Wright Washington, D. C., and Mansfield, McHurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, that he would at his office at Muskogee, Indian Territory, on Friday, July 6, 1906, at nine o'clock A. M., hear the testimony of such witnesses as might be presented in support of the petitions for the identification of George W. Morrison and her children, and Laura K. McPhail and her children, as Mississippi Choctaws.

There was filed with this office on June 11, 1906, by W. W. Wright, attorney for the petitioner, Laura K. McPhail, the affidavit of Susan S. Burton, the mother of said Laura K. McPhail.

June 11, 1906, there was filed with this office by W. W. Wright, attorney for the petitioner, the petition of Lillie Margaret Fountain (nee Burton), praying for the identification of herself as a Mississippi Choctaw.

June 16, 1906, there was filed with this office by W. W. Wright, attorney for the petitioners, the petition of Mary E. Dees, praying for the identification of herself, and her children, Henry H., George A., Walter T., Edgar R., Oscar E., Fannie E., Katiebelle and Willie W. Dees and Mary E. Wood, and her grandchildren, Tommie W. Dees, Herbert Dees, and Sammie D. Wood, as Mississippi Choctaws.

June 18, 1906, there was filed with the Commissioner to the Five Civilized Tribes by W. W. Wright, attorney for the petitioner, the petition of Fannie E. Wiltshire (nee Burton), praying for the identification of herself as a Mississippi Choctaw.

June 18, 1906, there was filed with the Commissioner to the Five Civilized Tribes by W. W. Wright, attorney for the petitioners, a motion to consolidate the petitions and applications of Laura K. McPhail, et al., Lillie M. Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire for identification as Mississippi Choctaws, and requesting that the hearing in the case of Laura K. McPhail, et al., set for July 6, 1906, be postponed until August 1, 1906.

June 22, 1906, W. W. Wright, attorney for the petitioners, Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire, requested this office, by wire, to withhold action on the motion for postponement in the case of Laura K. McPhail. This was followed by the receipt by this office on June 25, 1906, of a letter of W. W. Wright of June 22, 1906, requesting the consolidation of the petitions and applications referred to, but

withdrawing the motion in so far as it requested a postponement of the hearing upon the petition and application of Laura K. McPhail, et al.

June 29, 1906, the Commissioner to the Five Civilized Tribes ordered that the motion of W. W. Wright, filed with this office on June 18, 1906, be granted in so far as it prayed for the consolidation of the applications and petitions of Laura K. McPhail, et al., Lillie M. Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire; that the application and petition of George W. Morrison, et al., be also consolidated with and made a part of the case above referred to; that the motion of W. W. Wright praying for the continuance in said consolidated case until August 1, 1906, be denied, and that the hearing upon the petitions of George W. Morrison, et al., and Laura K. McPhail, et al., proceed in conformity with the notices of June 6, 1906, advising the petitioners, their attorneys of record, and the attorneys for the Chectaw and Chickasaw Nations, that said hearing would be had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, on July 6, 1906, at nine o'clock A. M.; and that the hearing upon the petitions of Lillie Margaret Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire be also had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, Friday, July 6, 1906, at nine o'clock A. M., and that notice of such hearing be immediately furnished the petitioners, their attorney, W. W. Wright, and the attorneys for the Chectaw and Chickasaw Nations.

In conformity with said order, the applicants, their attorney, and the attorneys for the Chectaw and Chickasaw Nations were notified thereof.

July 6, 1906, proceedings were had in the matter of the foregoing petitions in accordance with the notices above mentioned, at which time it was attempted to establish that an application had also been made for the identification of Wallis V. Hark as a Mississippian Chectaw within the time limited by the Act of Congress approved

July 1, 1902 (32 Stats., 641).

July 23, 1906, there was filed with this office a petition on behalf of Moses, Miriam, Phillip Aaron, Susan Burton and Ruby Marx, minor children of the petitioner, Sallie V. Marx, praying that they be enrolled as Mississippi Choctaws.

There was also filed with the Commission to the Five Civilized Tribes written application for the identification of Lucy J. Burton as an intermarried Mississippi Choctaw.

On September 13, 1901, Susan S. Burton, mother of the petitioners, George W. Morrison, Laura K. McPhail, Mary K. Dees, Lillie M. Fountain and Fannie E. Wiltshire, in the matter of her application for identification as a Mississippi Choctaw, testified:

- "Q Have you any children under twenty-one years of age and not married that you desire to make application for? A No, sir.
- Q Your children are all grown? A All grown and married but one; she teaches school.
- Q How old is she? A Well, I don't know; I have it here.
- Q How old is she? A I think she is thirty.
- Q She is over twenty-one years of age? A Yes, sir.
- Q The application you are making is simply for yourself? A Yes, sir, I want to identify my children.
- Q Well, you are making application for yourself now; we could not allow you to make any application for your children who have attained their majority; they will have to appear in person as representatives for themselves and families? A Yes, sir."

On December 19, 1901, Susan Cornelia Marshall, also a daughter of Susan S. Burton, in the matter of her application for identification as a Mississippi Choctaw testified:

- "Q Can you give the names of your brothers and sisters? A John Ezra Burton, Fannie E. Burton, Laura K. Burton, Ruby E. Burton; do you want their maiden names? Q Just continue as you are? A Henry V. Burton, Hardy C. Burton, Cornelia S. Burton, Lillie M. Burton and George W. Burton.
- Q You have given the names of all your brothers and sisters? A Yes, sir.
- Q They are all sons and daughters of Susan S. Burton? A Yes.
- Q Now, yourself and your brothers and sisters derive their Choctaw blood from the same source that Susan S. Burton does? A Yes, sir."

Relative to the petitioner, Sallie V. Marx, Susan S. Burton, the grandmother of said petitioner, on September 13, 1901, testified:

Q Who is John E. Burton? A He is my eldest son.
Q Is he living? A No, he died last January was a year
ago. He leaves a daughter. She lives in Hazelhurst."

It does not appear from the records in the possession of this office that applications of any nature whatsoever have ever been made for the identification of Emma Z. Morrison, Anna May Morrison, Henry V. Morrison, Frank W. Morrison, Fannie H. Morrison, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail, Homer McPhail, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katiebelle Dees, Willie W. Dees, Tommie W. Dees, Herbert Dees, Sennie D. Wood, Moses Marx, Miriam Marx, Phillip Aaron Marx, Susan Burton Marx and Ruby Marx as Mississippi Choctaws within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641).

The evidence in this case shows that the petitioners, Frank McPhail, Myra McPhail, Fannie McPhail, Henry H. Dees, Mary E. Wood and George A. Dees, were all adults on March 4, 1906.

It appears from the record herein that the petitioners, George W. Morrison (thirty-seven years of age), Laura K. McPhail (forty-eight years of age), Mary E. Dees (forty-seven years of age), Lillie M. Fountain (thirty-eight years of age), and Fannie E. Wiltshire (fifty-one years of age), are the children of Susan E. Burton, who, on December 11, 1903, was identified by the Commission to the Five Civilized Tribes as a Mississippi Choctaw, under the provisions of Article Fourteen of the Treaty of 1830, and approved by the Secretary of the Interior February 5, 1904; and that the petitioner, Sallie V. Marx (thirty-one years of age), is the daughter of John E. Burton (deceased), who was also a child of said Susan E. Burton.

I am of the opinion that the records herein show that application was made for the enrollment of Laura K. McPhail, Mary E. Dees, Lillie M. Fountain, Fannie E. Wiltshire and Sallie V. Marx as Mississippi

Cheetaws within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and that their applications should be determined upon their merits, and it is so ordered.

I am further of the opinion that the evidence in this case fails to establish that any application was ever made for the identification of Emma K. Morrison, Anna May Morrison, Henry V. Morrison, Frank W. Morrison, Fannie H. Morrison, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail, Homer McPhail, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katie-belle Dees, Willie W. Dees, Tommie W. Dees, Harburt Dees, Sannie D. Wood, Moses Marx, Miriam Marx, Phillip Aaron Marx, Susan Burton Marx, and Ruby Marx as Mississippi Cheetaws within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and I am now without authority to receive or consider their applications for identification as Mississippi Cheetaws under the provisions of the Act of Congress above cited, and I, therefore, decline to receive the same, and it is so ordered.

I am further of the opinion that as to Frank McPhail, Myra McPhail, Fannie McPhail, Henry H. Dees, Mary E. Wood and George A. Dees, they having been adults on March 4, 1906, I am without authority to receive or consider their applications for enrollment as citizens of the Cheetaw Nation under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and I, therefore, decline to receive the same, and as to the other petitioners, who were minors on March 4, 1906, no action can be taken at this time inasmuch as their parents are not upon the approved roll of Mississippi Cheetaws.

I am further of the opinion that George W. Morrison, Laura K. McPhail, Mary E. Dees, Lillie E. Fountain, Fannie E. Wiltshire and Sallie V. Marx should be identified as Mississippi Cheetaws under the provisions of Article Fourteen of the Treaty of 1830, and it is so ordered.

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-8-

I am further of the opinion that under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), no person is entitled to identification as Mississippi Hunter by marriage, and that the applications made for the identification of John F. Morrison and Lucy C. Burton as intermarried Mississippi Hunters should, therefore, be refused, and it is so ordered.

(Signed) Tams Nixby,
Commissioner.

Muskogee, Indian Territory,

Aug. 6, 1906.

BIRTH AFFIDAVIT

DEPARTMENT OF THE INTERIOR,
 COMMISSIONER TO THE FIVE CIVILIZED TRIBES
 ENROLLMENT OF MINORS ACT OF CONGRESS APPROVED APRIL 26, 1906.

IN RE APPLICATION FOR ENROLLMENT, AS CITIZENS OF THE CHOCTAW NATION
 as Mississippi Choctaws of Grace McPhail, a female child, born on
 the 24th day of the month of December in the year 1886 ;
 Gates McPhail, a male child, born on the 12th day of the month of
December in the year 1888 ; Preston McPhail, a male child,
 born on the 26th day of the month of December in the year 1890 ;
 Virgil McPhail, a male child, born on the 20th day of the month
 of September ; in the year 1895 ; Homer McPhail, a male child,
 born on the 26th Day of the month of September in the year
1897 , all being children of F. M. McPhail, a citizen of the
 State of Texas, and of his present wife, Laura K. McPhail, she being
 the daughter of Susan S. Burton, Mississippi Choctaw, and being the
 identical Laura K. Burton, whose application, together with that of
 her minor children named above and also of her adult children, Frank
 M. McPhail, Myra McPhail and Fannie McPhail, is now pending before
 this Department, testimony in support thereof having been heard before
 the Honorable Commission to the Five Civilized Tribes at Muskogee,
 Indian Territory, on to-wit: July 6th, 1906, which testimony is here
 referred to and asked to be considered in connection herewith. The
 Post Office Address of F. M. McPhail and his wife Laura K. McPhail and
 their minor children aforesaid is Beaumont, Jefferson County, Texas.

This application for enrollment of the above named children
 is supplemental to and is asked to be considered in connection with
 the application now pending before this Department wherein the above
 named minor children are joined in an application with their mother,
 the said Laura K. McPhail, and her adult children aforesaid.

 AFFIDAVIT OF MOTHER.

STATE OF TEXAS)

COUNTY OF JEFFERSON)

I, Laura K. McPhail, on oath state that I am
49 years of age, and am the daughter of Susan S. Burton, who was
 enrolled as a Mississippi Choctaw, and who is now living in Durant, I.

2

Susan S. Burton, in her testimony given on hearing of her application for enrollment as a Mississippi Choctaw in 1901, and referred to on page two of her testimony, wherein she expressed her desire to identify her children, and offered and attempted to give the names of each and all of her children to this Honorable Commission, and the said Laura K. McPhail, being also the identical person mentioned by name as appears on page 65 of the records of the testimony of Susan S. Burton, et al, Mississippi Choctaw Applicants in the testimony of Susan Cornelia Marshall taken on December 19th, 1901, as follows:

Q. Can you give the names of your brothers and sisters?

A. John Ezra Burton, Fannie E. Burton, Laura K. Burton Mary E. Burton; do you want their maiden names?

Q. Just Continue as you are. A. Henry D. Burton, Hardy C. Burton, Cornelia S. Burton, Lillie M. Burton and George W. Burton."

Said Laura K. McPhail being the identical person named as principle applicant in a petition in behalf of herself and her children, which was consolidated with other petitions in the case of Susan S. Burton, et al, Mississippi Choctaw Applicants, testimony in behalf of which was heard before the Honorable Commission, on to-wit: July 6th, 1906, the said Laura K. McPhail, having at that time appeared in person before this Honorable Commission in company with her mother Mrs. Susan S. Burton and her sisters Mrs. Lillie M. Fountain and Geo. W. Morrison, all of whom testified on the last mentioned date in the consolidated application of the above mentioned case of Susan S. Burton, et al, all of which testimony is here referred to and asked to be considered in connection herewith. I further state that my application for enrollment as a Mississippi Choctaw was pending before the Honorable Commission to the Five Civilized Tribes and was undisposed of on to-wit: April 26th, 1906.

I further state that I am the lawful wife of F. M. McPhail, who is a resident of Beaumont, Jefferson County, Texas, that a female child was born to me on to-wit: the 24th day of the month of December in the year 1886; which said child has been named Grace McPhail; that a male child was born to me on the 10th day of the month of December in the year 1888, which said child has been named Gates McPhail; that a male child was born to me on the 24th

day of the month of December in the year 1890, which said child has been named Preston McPhail; that a male child was born to me on the 20th day of the month of September in the year 1895, which said child has been named Virgil McPhail; that a male child was born to me on the 26th day of the month of September in the year 1897, which said child has been named Homer McPhail. That all of said children are now living and were living on to-wit, March 4th, 1906, all of said children being also the children of my present husband, Frank H. McPhail, to whom I was married on the 30th day of the month of December in the year 1879.

Laura K. McPhail

WITNESSES: P. G. Mohrman
Gas. J. Neal

Suscribed and sworn to before me this the 28th day of July, A. D. 1906.

George Anderson
NOTARY PUBLIC IN AND FOR JEFFERSON COUNTY, TEXAS.

AFFIDAVIT OF F. M. MCPHAIL.

STATE OF TEXAS)
COUNTY OF JEFFERSON) I, F. M. McPhail, a white man and citizen of the State of Texas, County of Jefferson, on oath state that I am the husband of Laura K. McPhail, formerly Laura K. Burton, whose named is subscribed to the foregoing affidavit, and I further state that all of the matters and things set out in said affidavit in regard to the names and ages of her children, same also being my children, and their relationship are true and correct as therein stated.

F. M. McPhail

WITNESSES: P. G. Mohrman
Gas. J. Neal

Suscribed and sworn to before me this the 23rd day of July, A. D. 1906.

George Anderson
NOTARY PUBLIC IN AND FOR JEFFERSON COUNTY, BRAUMONT, TEXAS.

IN RE

Application of Susan S. Burton;
et al, Miss. Choctaws.

Application for Enrollment of
M I N O R S.
Grace McPhail, et al, as
Citizens of the
CHOCTAW NATION.

DEPARTMENT OF THE INTERIOR
Commissioner to the Five Civilized Tribes

FILED

JUL 25 1906


Commissioner.

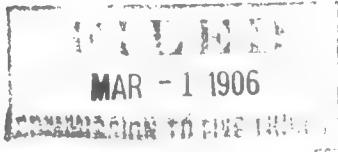
OSWALD S. PARKER,
LAWYER
BEAUMONT, TEXAS.

31873

2.

BEFORE THE HONORABLE,
~~THE SECRETARY OF THE INTERIOR.~~

In re Application of
SUSAN S. BURTON, et al,
Mississippi Choctaw Applicants.



P E T I T I O N .
AFFIDAVIT OF SERVICE.
APPLICATIONS OF LAURA K. Mc.PHAIL
AND CHILDREN.

William W. Wright,
Attorney for Applicants.
Corcoran Building,
Washington, D. C.

Department of the Interior,
February 26.....1906.
Respectfully referred to the
Commissioner to the Five Civilized Tribes for report and
recommendation.

[Handwritten signature]
Act Assistant Secretary.

Department of the Interior
FEB 21 1906
2097
Indian Bureau

COMMISSIONER TO FIVE TRIBES
No. Received
MAR - 1 1906

DEPARTMENT OF THE INTERIOR
MAR 3 1906
Returned with No. 7240
Inclosure

BEFORE THE HONORABLE, THE SECRETARY OF THE INTERIOR.

In re Application of Susan S. Burton, et al,
Mississippi Choctaw Applicants.

Now come your petitioners, through their attorney, William W. Wright, of Washington, D. C., namely, Mrs. Ella Mc.Phail, for herself and in behalf of the following named children, Frank Mc.Phail, Myra Mc.Phail, Fannie Mc.Phail, Grace Mc.Phail, Gates Mc.Phail, Preston Mc.Phail, Virgil Mc.Phail and Homer Mc.Phail, whose post office address is Beaumont, Texas and respectfully show:

Your said petitioner, Mrs. Ella Mc.Phail, is the legal wife of F. M. Mc.Phail and the above named children are the lawful issue of such marriage. Your said petitioner is the daughter of one, Susan S. Burton, the above named applicant, and said children are the grandchildren of said Susan S. Burton.

Some time on or before the year 1902 said Susan S. Burton made application, along with others of her family, for the identification and enrollment as Mississippi Choctaw Indians, in a certain application entitled as above. March 4th, 1902 an opinion was rendered by the Hon. Secretary of the Interior remanding said application for additional consideration by the Five Civilized Tribes and that thereafter, November 24, 1903, the applicants mentioned in said application, comprising said Susan S. Burton and certain members of her family, were ordered enrolled by the Hon. Secretary and since said date, the said applicants have had the same lands of the Choctaw Nation allotted to them as is shown

Prior to the application of said Susan S. Burton, she was residing at Haslemurst, Mississippi, and in making the journey to Indian Territory for the purpose of making formal application to the Five Civilized Tribes, she traveled by the way of Beaumont, Texas and remained several days in said city, visiting Mrs. Ella Mc.Phail, her daughter. During the said sojourn of Susan S. Burton, the matter of making an application to the said Commission for identification as Mississippi Choctaws was thoroughly discussed and it was agreed that Mrs. Mc.Phail and her family were to raise part of the necessary funds sufficient to enable said Susan S. Burton to make application in behalf of herself and the said family of Mrs. Mc.Phail. At this time, your petitioner was ignorant in regard to the laws and regulations governing the filing of applications and did not know that there was any rule or order that made it necessary for each individual applicant to move to the Territory for the purpose of making formal application. Being under the impression that one member of a family could make application for a number of the same family, and it having been agreed between said Susan S. Burton and your petitioner that she would make application for your petitioner's family, it was thereafter taken for granted that such application was made.

An examination of the record in the case of Susan S. Burton, et al, would seem to indicate that said Susan S. Burton did, as a matter of fact, attempt to make such application, but she was cut off by the peremptory remarks of the Commission and prevented from giving the names of your petitioner and her family. As a basis for this allegation, petitioner refers to the record of said application, especially the examination of the principal applicant, page 2 thereof as follows:

Q. Have you any children under twenty-one years of age and unmarried that you desire to make application for?

A. No, sir.

Q. The application you are making is simply for yourself?

A. Yes, sir, I want to identify my children.

Q. Well, you are making application for yourself now; we cannot allow you to make any application for your children who have attained their majority; they will have to appear in person as representatives for themselves and family.

A. Yes, sir.

From the above testimony, it is obvious that said Susan W. Burton was endeavoring to make application in behalf of your petitioner and her family and it is submitted, that it was the duty of said Commission to allow said Susan S. Burton to tell the names she had in mind at that time, so that the same might have been spread upon the record.

From the time said Susan S. Burton made application in person, your petitioner supposed that she was included in said petition for enrollment and, even after petitioner heard that her mother and certain other applicants had been allotted land, she has been expecting to have land allotted to her also, until very recently she had the record of the case examined by her attorney and was advised as to the facts.

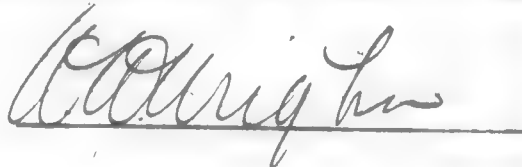
Your petitioner intends to furnish affidavits in support of this petition but, in view of certain pending legislation which might cut off her rights, unless a petition is filed on or before March 4th next, she takes this opportunity to present the main facts, believing that affidavits in support thereof will be considered at a further date, provided the same are filed within a reasonable time.

Your petitioner further shows that it is only possible to obtain complete relief by an appeal to the discretionary power of the Hon. Secretary of the Interior.

Wherefore, the premises considered, your petitioner prays as follows:

P R A Y E R S.

1. That the attempted application of said Susan S. Burton may be construed as an application in fact for and in behalf of your petitioner and her said family, made as of the date of said Susan S. Burton's testimony.
2. That your petitioner may submit necessary proof, showing her relationship to said Susan S. Burton, and upon proper proof of said relationship, that she and her said children be ordered identified as Mississippi Choctaws.
3. And for such other and further relief as may seem just and proper in the premises for the complete protection of the rights of your petitioner and her said family.


C. W. Wright

SECRETARY OF THE INTERIOR

COMPLETE LETTER BY THE SUBJECT TO THE DISCRETIONARY BOARD OF THE HOW
SOME NECESSARY LETTERS FROM THE TO ONLY BEING TO OBTAIN

AFFIDAVIT OF SERVICE.

City of Washington, SS.
District of Columbia.

William W. Wright, being first duly sworn, upon oath deposes and says: He is the attorney for the petitioner and applicants mentioned in the foregoing petition and that he served a true copy of said petition upon Messrs. Mansfield, Mc.Murray and Cornish, attorneys for the Choctaw Nation, by mailing said copy to them, on the 21 day of February, 1906, by registered letter, directed to them at South Mc.Alester, I. T., as more fully appears from the official receipt of the postmaster hereto attached.

William W. Wright

Sworn and subscribed to before me this 21st day of February, 1906.

[Signature]
Notary Public.

U. S. Registered Mails go to every post office in the world. Provide for safe transit and correct delivery.

Letters may be registered at any post office and carried by mail carriers or parcel carriers. Letters registered by parcel carriers are subject to inspection.

Registered mail is delivered through a U. S. post office, the sender, without request and without charge, receives the addressee's acknowledgment when delivered through a post office of a foreign country, if the words "Receipt demanded" be indorsed on the address side of the letter or parcel.

U. S. P. O. Registry Receipt.

Letter Parcel No. 135 P. O., Washington, D. C.

Received for registration Feb. 21 1906 from Wm. Wright

delivered to Mansfield Mc Murray
Cornish, S. Mc Alester, I. T.

1c class postage prepaid. Postmaster, per W.

Mr. F. M. McPhail and his wife, Laura K. McPhail and being duly sworn depose and say:

1. That Mrs. Susan S. Burton, claimant in cause No. 1937 for allotments of land in the Choctaw Nation, Ind. Ter., is the mother of affiant Laura K. McPhail and that they the said affiants are husband and wife and that they have the following children to wit, Frank M. McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail and Homer McPhail and that the said Frank M. McPhail is a married man and his wife is Ella McPhail, and that the said Susan S. Burton is the grand mother of all of said children.

2. That they intended to make application for their allotment from the government in and through the said Mrs. Susan S. Burton when she made her application and that they suppose the same was done.

3. That they Assisted in bearing the expenses of the said Susan S. Burton when she went to make the said application she going from Hazlehurst, Miss. to the said Territory.

3a That the said affiants were living at Beaumont, Texas, at the time and the said Susan S. Burton came by and remained here for quite a while and the matter of making the said application was all gone over and it was understood that the said mother would make the applications for the said affiants and all their children they having been told that the said mother, Susan S. Burton, could make said applications.

4. That they have always understood and believed that their application was made in and through the said mother, Susan S. Burton but that the same was rejected by the commission hearing the same.

Witness our hands this the 17th day of February, 1906.

F. M. McPhail
Laura K. McPhail
Affiants.

Subscribed and sworn to before me, E. A. Hefner, a notary public in and for Jefferson County, Texas, this February 17, 1906.

E. A. Hefner

United States of America.
Central District.
Eastern Territory.

In Re application of Mrs George W.
Morrison in her own behalf, and behalf
of her minor children to-wit:

Emma Z. Morrison, nine years old.

Anna May Morrison, seven years old.

Henry B. Morrison, five years old.

Frank L. Morrison, three years old.

Fannie H. Morrison, one year old.

And Jean F. Morrison in his own proper
person, to be admitted and enrolled as
Choctaw Indians, and him as intermarried citizen.

To the Honorable Secretary of the Interior.

Washington, D. C. December, 18th, 1905.

Now comes, Mrs George W. Morrison in her own proper person, and
in behalf of her following named minor children, to-wit: Emma Z.

Morrison, born on the 20 day of June 1896.

Anna May Morrison, born on the 1 day of Aug 1898.

Henry B. Morrison, born on the 27 day of Nov 1891.

Frank L. Morrison, born on the 23 day of Dec 1892.

Fannie H. Morrison, born on the 5 day of July 1895.

And Jean F. Morrison, husband of said George W. Morrison, joining
in this application and in his own proper person as an intermar-
ried Choctaw citizen, and presents this, their joint and ^{several} applications,
praying, that they be adjudged by your Honor, as Mississippi, Cho-
ctaw Indians, and the said Jean F. Morrison, as an intermarried cit-
izen, and as such that, they and each of them be placed upon the
Mississippi Choctaw roll as such Mississippi Choctaws, after duly
considering the laws, treaties and affidavits accompanying this ap-
plication.

Your applicants by affidavits hereto attached, of your applicants
George W. Morrison and husband Jean F. Morrison, together with the
affidavits of Henry D. Burton and Susan Cornelia Marshall, and
Susan S. Burton, show that, the said George W. Morrison and her said
children are direct descendants from the said Susan S. Burton, her
mother, and sister of the said Henry D. Burton and Susan Cornelia

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APPLICATION TO BE TROTTLED AS
MISSISSIPPI OCTOBER INDIANS.

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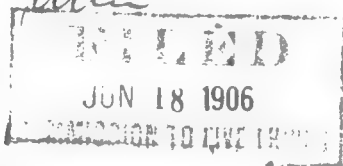
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RECEIVED
MAY 7 1906
MISSISSIPPI OCTOBER INDIANS

Before the Hon. Com.
To the Fine Arts Tribes.

In Re Susan S.
Benton et al, Miss.
Choc. Appraisals -

Petition of Laura
H. McPhail et al
& others to consolidate
certain cases and
for an extension
of time



W. W. Wright
Atty for petitioners
Cochran Bldg.
Wash. D.C.

Before the Honorable Commissioner to the Five Civilized Tribes.

In re petitions and motions for review and reconsideration of the following named persons, now on file in connection with the case of Susan S. Burton et al Miss. Choctaw Applicants.

Laura K. Mc.Phail et al

Lillie M. Fountain

Mary E. Dees et al and

Fannie E. Wiltshire.

Motion to consolidate the above cases and for additional time in the case of Laura K. Mc.Phail et al.

Your petitioners above named, by their attorney, William W. Wright, of Washington D. C., file this, the above named motion, and for cause thereof respectfully show:

1. All of the above named applicants claim through one, Susan S. Burton, an enrolled Mississippi Choctaw, and the grounds of their claims are similar and practically identical.
2. The above applicants are represented by the same attorneys, whom they desire to have present at any hearing, and it will subject them to inconvenience and unnecessary expense to be compelled to have said attorneys present at different hearings.
3. Many of the above applicants are important witnesses for each other, particularly upon the point of proving the family relationship and identifying each other as members of the same family, and it would subject them to great inconvenience and unnecessary expense to be compelled to appear at several different hearings.
4. In the event that any depositions should be necessary, it would cause them great inconvenience and expense to duplicate the same for each individual case.

Petitioners further show that a hearing in the above cases should not be held earlier than about August 1st next, in order to give them sufficient time to prepare for trial, and that the case of Laura

K. Mo.Phail, set for the morning of July 6th, 1908, should be postponed and heard in connection with the other said cases, for the following reasons:

1. It will be necessary for petitioners to have time to arrange among themselves so that they may have an opportunity to adjust the costs incident to a hearing of their cases.
2. Petitioners are residents of the states of Mississippi and Texas and it requires some considerable time to conduct the correspondence necessary to effect a common arrangement among them for the purpose of defraying all costs and expenses.
3. A consolidation of all said cases and an extension of time in said case of Laura K. Mo.Phail is equally to the benefit of the Choctaw Nation.

William O. Wright
Attorney for petitioners.

Affidavit of Service.

City of Washington
SS.
District of Columbia

William W. Wright being first duly sworn upon oath deposes and says: He is the attorney for the persons mentioned in the foregoing and annexed motion and that the same is filed in perfect good faith and not for any purposes of delay. Affiant further says that, on the 15th day of June 1906, he served a true copy of said motion upon the Choctaw Nation by mailing the same, by registered mail, to Mansfield Mc.Murray & Cornish, attorneys for said nation, directed to them at So. Mc.Alester I. T., all of which more fully appears from the official receipt of the postmaster hereto annexed.

William W. Wright

Subscribed and sworn to before me this 15 day of June 1906.

J. S. [Signature]
Notary Public D. C.

U. S. Registered Mails go to every post office in the world. Provide for safe transit and correct delivery. Letters and parcels may be deposited at any post office or at any post-office station. Letters will be registered in letter offices in the post-office districts of cities, towns, and villages, and will be delivered by rural carriers through the mail. For letters and parcels through a U. S. post office the postman will request and without charge, receive the addressee's acknowledgment, and when delivered through a post office of a foreign country, if the words "Receipt demanded" be stamped on the address side of the letter or parcel. U. S. C. Registry Receipt. Letter / Parcel No 130749 P. O. Washington, D. C. Received for registration [Signature] [Signature]

On this the 3 day of ^{March} ~~February~~, 1906, before the under -
signed authority, personally appeared Mrs. Susan S. Burton, who
being duly sworn deposes and says:

1. That she is the claimant in cause No. 1937, and that hereto-
fore on or about Nov. 24, 1903, she was identified as a Mississippi
Choctaw and that she has heretofore received her allotment from the
government.

2. That she is the mother of Laura K. McPhail, who now
resides at Beaumont, Texas, and that she is the grand mother of the
following persons, who are the children of Mrs. Laura K. McPhail,
to-wit, Frank M. McPhail, Myra McPhail, Fannie McPhail, Grace McPhail,
Gates McPhail, Preston McPhail, ^{Virginia McPhail} and Homer McPhail.

3. That it was her intention to present the names of the
McPhail family when she made her application; that she took a list
of the names of all her children, showing date of birth, which
includes the above Mrs. Laura K. McPhail, expecting that she would
be permitted to file the application for all her children, and that
said Commission received from her the paper containing names and
ages of her children.

Witness my hand this the 3 day of ^{March} ~~February~~, 1906.

Susan S. Burton
Affiant.

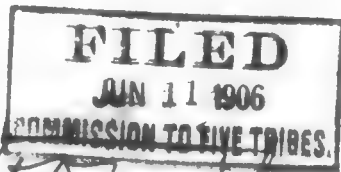
Subscribed and sworn to before the undersigned authority on
this the 3rd day of March A.D. 1906.

C. H. Marshall
Notary Public.

Before the Hon. Comm.
Five Civilized Tribes.

In Re Petition of
Lana K. McPherson
et al.

Affidavit of Susan
J. Burton & Affidavit
of Service.



Wm. H. ...
Atty for Petitioners
Washington
D.C.

Affidavit of Service,

City of Washington,

District of Columbia. SS.

William W. Wright, being first duly sworn, upon oath deposes and says. He is the attorney for Mrs. Laura K. Mc.Phail et al, mentioned in the foregoing and attached letter and affidavit, and on the 8th, day of June 1906, he served a true copy of said letter and affidavit upon the Choctaw Nation, by mailing the same to Mansfield Mc. Murray & Cornish, by registered mail, attorneys for said nation, directed to them at So. Mc.Alester, I. T., according to the official receipt hereto attached. This affidavit is filed in perfect good faith and without any purpose of delay.

William W. Wright

Sworn and subscribed to before me this 8th, day of June 1906.

J. Murray
Notary Public D. C. 1

U. S. P. O. Registry Receipt.

Letter No. 80 P. O., Washington, D. C.

Received for registration

addressed to Mansfield Mc. Murray & Cornish

class postage prepaid. Postmaster, per

U. S. Registered Mails go to every post office in the world. Provide for safe and direct delivery. Letters and parcels are received at any post office at any time of day. Letters will be registered by mail carrier in the residential districts of cities. Letters and parcels will be registered by mail carrier throughout the country. For letters and parcels delivered throughout the U. S. at any office, and for delivery to any foreign country if desired, except Hawaii, and to the Hawaiian Islands, the postage should be paid on the side of the envelope.

Marshall, all of whom have been duly and legally enrolled, either by the Daws Commission to the Five Civilized Tribes, or by the Honorable Secretary of the Interior, as shown by the affidavits of the said Henry D. Burton, and Susan Cornelia Marshall, together with their enrollment number, as well also, as by the affidavit of their mother, Susan S. Burton, and here enrollment number.

Your applicants show further, that there was no ^{dereliction} dereliction on their part, or either of them, that prevented their names being properly enrolled, as such Mississippi Choctaws, but unavoidable circumstances and conditions over which they had no control, although, they have made repeated efforts to become enrolled as shown by affidavits accompanying this application.

Your applicants therefore, pray the Honorable Secretary of the Interior, to carefully inspect and compare all of said affidavits with the view of placing your applicants on said roll. And that this, their application, be favorably received and acted upon by the Secretary of the Interior, or such recommendations as the Honorable Secretary may see proper, just and right, to submit to the Commission to the Five Civilized Tribes for their favorable action, with the recommendation, that they be duly placed upon said Mississippi Choctaw roll, according to the laws and treaties made and provided for such purposes.

Witness our hands and signatures and our said minor children, this the 12th day of December, 1905, at Durant, Indian Territory.

All intercommunications and answers were made before signing.

Witnesses:

[Handwritten signatures of witnesses]

George W. Morrison
John H. Morrison
Carroll V. Morrison
Marion A. Morrison
Therese G. Morrison
Elizabeth D. Morrison
Fernie H. Morrison

By George W. Morrison

Sworn to and subscribed before me Dec 12 1905
J. H. Johnson
Notary Public Central Dist.

United States of America.

Central District.

Indian Territory.

Before me J. M. Johnson, a notary public within and for the Central District of the Indian Territory, appeared in person George W. Morrison personally well known to me, who being by me duly sworn on his oath deposes and says, that the answers to the questions herein- afterward propounded are true and correct to the best of his knowledge, information and belief.

1. Q. What is your full name?

A. My full name is George W. Morrison. *Commonly called George*

2. Q. About how old are you?

A. I ~~was~~ thirty six years old April the 21st, 1905.

3. Q. Near what town or City do you reside?

A. I reside in Durant, Indian Territory.

4. Q. Are you married, and if so, when and to whom?

A. I was married to John F. Morrison in the state of Mississippi, on August the 4th, 1895, our license having been procured in Copiah, County, Hazlehurst, Mississippi.

5. Q. What was your maiden name previous to your marriage with Mr. Morrison?

A. My maiden name was George W. Burton.

6. Q. What relationship, if any, are you to Henry D. Burton and Susan Cornella Marshall?

A. They are my brother and sister.

7. Q. Who was your mother?

A. My mother was Susan S. Burton.

8. Q. Was Susan S. Burton by blood a Choctaw Indian, and if so are you by blood a Choctaw Indian?, and if so in what degree?

A. My mother was a quarter Choctaw Indian, and I am one eighth Choctaw Indian.

9. Q. Is your Indian blood from your father or mother?

A. From my mother Susan S. Burton, who is now living.

10. Q. Is your father living or dead?

A. He is dead.

Morrison

1869

11. Q. If you have any children by John F. Morrison give their names, ages and sex?

A. I have five children by him to-wit; Emma Z. Morrison, age nine years, a female; Anna May Morrison, age seven years, a female; Henry B. Morrison, a male, five years old; Frank L. Morrison, a male, three years old; and Fannie H. Morrison, a female, one year old, now residing with us and under our protection.

12. Q. How long have you resided in the Indian Territory; when did you leave Mississippi, and to what point did you remove?

✓ A. I have lived in the Territory about one year; left Mississippi in 1900 or 1901 for Beaumont, Texas, and from thence to the Indian Territory.

13. Q. Is the name of your mother upon the tribal roll as a Choctaw Indian, if so at what point was she enrolled?

✓ A. My mother's name was put on the tribal roll at Meridian, Mississippi in 1902.

14. Q. Do you know if your mother, also had her children put on the roll?

x4 A. She gave the name of her children at the time she made application for enrollment, (except those whose names were already enrolled), including applicant.

15. Q. Did you at any time take the commission to the five civilized tribes was in Mississippi apply to said commission to be put on the roll? if not, give the reasons for such failure?

A. I did not, because was not informed that such commission was then in said state for the transaction of Indian affairs in 1902, or other years, my self and husband, not being in the state of Mississippi at the time; but since arriving in the Indian Territory my husband, John F. Morrison wrote a letter and several letters for us to the Dawes commission and Secretary of the Interior, with the request to be placed upon the roll as a Mississippi Choctaw for wife, and husband as an intermarried citizen, and our children as Choctaw Indians. And that the refusal to be put on the roll, as given, was that the time had expired for such grant, or reasons substantially to that effect, which letters if desired can be produced, showing application and refusal to act. See letter to C.C.M. lastly attached hereto.

16. Q. What is your reason you claim you should be placed on said roll?

A. Because, I am a Choctaw Indian by blood, and that my brother Henry. D. Burton and sister Susan, Cornellia, Marshall, ^{and her children} have each been placed on the roll, as Choctaw Indians, the said Henry D. Burton, number 1556, and Susan Cornellia Marshall, number 3181, and my mother Susan. S. Burton, No. M. C. R. 3547, they having been placed on said roll November the 24th, 1903 by the Secretary of the Interior, and approved by the commission to the Five Civilized tribes, December 11th, 1903. and their children.

17. Q. Who is making application with you for enrollment?

A. Myself and children, as named above, and my husband.

18. Q. What is your husband's occupation, and his principal and only means of livelihood?

A. His occupation is that of a carpenter, and his only means of support for his family.

19. Q. As a mechanic what is his general average of wages per day when there is work for him to do?

A. It varies from \$ 2.00 to \$ 3.00 per day, but often there is no work in sight.

20. Q. Was this the average wages at the time he was located at Beaumont, Tex. and when the said Commission met at Meriden Miss?

A. It was.

21. Q. What property did you or your husband have when you left Miss. and when at said Beaumont Texas?

A. Nothing except our household goods and furniture, wearing apparel etc.

22. Q. What, in the nature of effects, have you and husband at the present time?

A. We have no money or effects except as mentioned above.

23. Q. You have stated that you did not know of the meeting of the Commission of the Five Civilized Nations in the state of Mississippi, now, if you had in fact known of this, did you at the time have the necessary money, or could you have procured it to travel from said Beaumont, Texas to Meridian Miss, or elsewhere in that state, in

Order to have met with said Commission for enrollment?

A. We did not have the money nor could we have procured it for that purpose.

24. Q. What was the purpose of you and your husband removing to the Indian Territory at the time you did so?

A. It was for the sole and express purpose of becoming citizens of the Choctaw Nation of the Indian Territory, and placing our selves in position to assert and prove up our claims as Choctaw Mississippi Indians, and become enrolled as such.

25. Q. Have you ever abandoned this effort, or are you still persistent in your endeavor to be put on the roll as such Choctaw Indians.

A. We have ~~not~~ never abandoned our efforts, and are still pushing our claims to the very best of our ability, and will continue so to do until placed on the roll or have failed.

26. Q. Do you own any property of your own for occupancy, or do you and husband rent a home?

A. We own no property of our own for occupancy, and simply rent a house for occupancy as a dwelling here in Durant, Ind, Ter. paying a stipulated monthly rent.

All interlineations and erasures were made before signing

George W. Harrison

Sworn to and subscribed before me, as such Notary Public, this the 29th. day of November, A.D. 1905.

J. M. Johnson

Notary Public, Central District, Ind. Ter'y.

My Commission expires March 14th 1908.

United States of America.

Central District.

Indian Territory.

Before me, J. M. Johnson, a notary public within, and for the Central District of the Indian Territory, appeared in person, John F. Morrison, personally well known to me, who being by me duly sworn on his oath, deposes and says, that the answers to the questions herein afterward propounded are true and correct to the best of his knowledge, information and belief.

1. Q. What is your full name?

A. My full name is John F. Morrison.

2. Q. About how old are you?

A. I was 31 years old on the 18 day of Sept, 1898.

3. Q. Where do you reside?

A. I reside in Durant, Indian, Territory, Choctaw Nation.

4. Q. Are you married, and if so, when and to whom?

A. I was married to George W. Morrison, nee George W. Burten, in the state of Mississippi, on August the 4th, 1895- Our licence having been procured in Copiah, County, Hazlehurst, Mississippi, as shown by marriage certificate hereto attached, marked exhibit "A", and made apart of my affidavit as well as a part of the affidavit of my said wife. *She was married under name of Georgia Burten who is one and the identical same name as George W. Burten, and*

5. Q. What was your wife's maiden name, previous to her marriage with you?

A. Her maiden name was George W. Burten. *or Georgia Burten*

6. Q. What relationship, if any, is your wife to Henry D. Burten, Susan Cornelia Marshall, and Susan S. Burten?

A. The first two names are ~~her~~ her brother and sister, and the last mentioned, is her mother.

7. Q. From your information, was Susan S. Burten, by blood, a Choctaw Indian, and, if so, is your wife, George W. ^{Morrison} Marshall by blood a Choctaw Indian? And if so, in what degree?

A. Mrs Susan S. Burten, mother of my wife, was a quarter, Mississippi Choctaw Indian, and my wife is one-eighth Mississippi Choctaw Indian.

8. Q. Is your wife's Indian blood from ~~her~~ her father or mother, if not from both, then state from which one of them?

- A. My wife derives her Indian blood only, from her mother, Susan S. Burten.
9. Q. Is your wife's father and mother living or dead?
A. Her father is dead, but her mother is living.
10. Q. Where does your wife's mother, Susan S. Burten, reside and make her home, and where is she at the present time?
A. She resides in Durant, Indian Territory, Choctaw Nation, but is now temporarily absent in Copiah County, at Hazelhurst, in the state of Mississippi on a visit.
11. Q. If you have any children by Mrs George W. Morrison, give their names, ages and sex?
A. I have five children by her to-wit: Emma Z. Morrison, age, nine years, a female; Anna May Morrison, age seven years, a female; Henry, B. Morrison, a male, five years old; Frank L. Morrison, a male, three years old; and Fannie, H. Morrison, a female, one year old, all now residing with us and under our protection.
12. Q. How long have you resided in the Indian, Territory; when did you leave Mississippi, and to what point did you remove?
A. I have lived in the Territory about one year; left Mississippi in 1900 for Beaumont, Texas, and from thence to the Indian, Territory.
13. Q. Did you or your wife at any time the Commission to the Five Civilized Tribes, was in the State of Mississippi, applied to said Commission to be put on the Choctaw roll of Indians? If not, give the reasons for such failure?
A. We did not, because we were not informed that such Commission was then in said state for the transaction of Indian affairs in 1902, or any other years- myself and wife not then being in the state of Mississippi; but since we arrived in the Indian Territory I wrote several letters for us to the Daws Commission and Secretary of the Interior, with the request to place us and our children upon the roll of Mississippi Choctaws, that is, for my wife and children, and I, as an intermarried citizen. And that the refusal to be put on the roll, as then given, was that the time had expired for such grant, or reasons substantially to that effect. Answers to

some of which letters, if desired, can be produced, showing application and refusal to act. I hereto attach letters marked exhibit "A", "B" and "C", and made parts of this affidavit.

14. Q. What is your reason you claim your wife and children should be put upon the Mississippi Choctaw Indian roll and you as an intermarried citizen?

A. Because, my wife is a Choctaw Indian by blood, and our children are necessarily one-sixteenth Choctaw Indians by blood, and

I, having married my wife became an intermarried Mississippi Choctaw Indian. At the time I married my wife, she was not recognized by law, as an enrolled Choctaw Indian, and hence, I did marry her under the Choctaw law, and married her under and by virtue of the laws of the State of Mississippi. As another reason why we make our claims, is that, my wife's brother and sister, Henry D. Burten and Susan Cornellia Marshall, nee Burten, and their mother, Susan S. Burten has ~~not~~ been placed on the roll as Choctaw Indians, the said Henry D. Burten, No. 1556, and Susan Cornellia Marshall, No. 3181, and Susan S. Burten, No 3547, as I am informed they having been placed on said roll, November the 24th, 1903 by the Secretary of the Interior, and approved by the Commission to the Five Civilized Tribes, December the 11th, 1903, as well as all their children.

15. Q. Who is making application for you for enrollment?

A. My wife, Mrs George W. Morrison, and our children mentioned above, as Mississippi Choctaws, and myself as an intermarried citizen.

16. Q. What is your occupation, and your principal and only means of a livelihood?

A. I am a Mechanic, or Carpenter by trade, and it is my only means of support for myself and family.

17. Q. As a Mechanic, what is your general average of wages per day, when there is work for you to do?

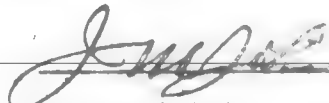
A. It varies from two to three dollars a day, but often there is no work in sight, and I am as often idle as engaged at my trade.

18. Q. Was this the average wages at the time you were located at Beaumont, Texas, and when the said Commission met at Meridian, Mississippi?
- A. It was.
19. Q. What property did you have, when you left Mississippi and when located at Beaumont, Texas?
- A. Our household goods and wearing apparel, nothing more.
20. Q. What, ~~in the~~ nature of effects have you at the present time?
- A. Nothing except as mentioned above.
21. Q. When the Commission met in Mississippi, did you at the times have the necessary money, or could you have gotten it to travel from said Beaumont, Texas to Meridian, Mississippi, or elsewhere in that state, in order to have met with said Commission for enrollment?
- A. We did not have the money and we could ^{not} have ~~not~~ procured it for that purpose.
22. Q. What was your purpose of removing to the Indian Territory, at the time you did so?
- A. It was for the purpose of becoming citizens of the Choctaw Nation, of the Indian Territory, and placing ourselves in a position to assert and prove up the claims of my wife and children, as Mississippi Choctaw Indians, and myself as an intermarried citizen, and to become enrolled as such.
23. Q. Have you ever abandoned this effort, or are you still persistent in your endeavor to be put on the roll as stated above?
- A. We have never abandoned our effort, and are still pushing our claims, ~~the~~ best we know how, and will continue to do so until placed on the roll.
24. Q. Do you own any property of your own for occupancy, or do you rent a home?
- A. We own no property of our own for occupancy, and only rent a house as a dwelling here ~~in the~~ Indian Territory, paying rents by the month.

John F. Morris
 All interlineations and corrections were
 made by me and approved by the

Sworne to and subscribed before me, this the 11th day of, December, 1905.

D. 1905.



Notary public, Central District, Indian, Terr.

My Commission expires, March the 14th, 1908.

United States Of America.

Central District.

Indian Territory.

Before me the undersigned authority, J. M. Johnson, a notary public within and for the Central District, Indian Territory, on this day appeared in person, Henry D. Burton and his sister, Susan Cornelia Marshall, both of whom are to me well known, each being by me duly sworn on their respective and separate oaths, deposes and says that, they are personally well acquainted with Mrs. George. W. Morrison and have known her thirty four years; and that she is a sister of both these affiants by blood; that she married John. F. Morrison in 1895, in the state of Mississippi, on the fourth of August of said year, and that she, with her said husband, removed from the state of Mississippi to the Indian Territory, Choctaw nation, in September, 1904, where they have every since resided, and that, the said Mrs. George. W. Morrison, being a sister of these affiants and descended from the same parentage, is a Choctaw Indian by blood from her mothers side - her mother being one quarter Choctaw Indian blood. And that the said, John F. Morrison, is therefore an intermarried citizen.

Said affiants appear upon the tribal roll of the Choctaw nation, as Mississippi Choctaws, numbered respectively---1556----- and-3181 as-well as their mother Susan S. Burton, *vi.* M C R 3547, they having been placed on said roll on November the 24th, 1903 by the Secretary of the Interior and approved by the commission to the five civilized tribes on December the 11th, 1903, together with the children of the said Henry. D. Burton and Susan Cornelia Marshall, *see Burton* naming them.

That the said Mrs. George. W. Morrison, has the following named children by her said husband, John. F. Morrison, to-wit; Emma Z. Morrison a female, nine years of age; Anna May Morrison, a female seven years of age; Henry. B. Morrison, a male, five years of age; Frank. L. Morrison, a male, three years of age; and Fannia H. Morrison, a female, one year of age, all of which children now reside with their said mother and father in Durant, Indian Territory, and

are under their care and supervision. That the said Henry D. Burton and Susan Cornelia Marshall, affiants herein, are reckoned to be one-eighth Choctaw Indian blood and that, the said Mrs. George W. Morrison, is likewise one eighth Choctaw Indian blood. That their mother, Susan S. Burton, is one quarter Choctaw Indian blood, and the mother of affiant's mother, being affiant's grandmother, is one half Choctaw Indian by blood. Those name being Mary Crump.

That affiant's mother, Susan S. Burton, at the date and time of her application for enrollment at Meridian, Mississippi, gave to the commission to the Five Civilized tribes of Indians, the names of all her children, (except those who had already made application including affiants,) the name of Mrs. George W Morrison, nee Burton, being among those whose names was so given.

Affiants are informed and so state the facts to be that, the said Mrs. George W. Morrison and husband, John F. Morrison did not appear before said Commission for enrollment in the state of Mississippi for the reason that, they were not apprised that such commission was then in said state for the transaction of Indian affairs, in the year 1902, or in any other years. And because the said, Mrs. George W. Morrison and husband, John F. Morrison were not in the state of Mississippi at that time, they having removed there from ^{to} Beaumont, Texas previously thereto where they remained until the year 1904, whence they moved to the Indian Territory.

All intercommunications and answers were made before signing.

Henry D. Burton

Susan Cornelia Marshall

Sworn to and subscribed before me this 27th day of November. A. D. 1905.

J. M. Johnson

Notary Public, Central District, Ind, Tex

My Commission expires March 1st 1908

United States of America.

Central District.

Indian Territory.

Before me, J. H. Longbeary Clerk & Officer a notary public within and for the County of LeFlore state of Mississippi appeared in person, Susan. S. Burton, to be personally well known, who being by me duly sworn on her oath deposed and says that, the answers to the questions hereinafter propounded are true and correct to the best of her knowledge, information and belief.

1. Q. What is your full name?

A. My full name is Susan. S. ^{Swain} Burton.

2. Q. About how old are you?

A. I was 77 years old on the 6th day of July 1906.

3. Q. Are you married, or have you been married, and if so, when and to whom?

A. I was married to H. D. Burton in the state of Mississippi on the 10th day of December 1851.

4. Q. What was your maiden name previous to your marriage with Mr. Burton, giving the name of your father and mother respectively and their residence?

A. My maiden name was Susan. S. Cornump, my mother's name was Mary B. Cornump ^(nee Smith) and my father's name was Henry B. Cornump and they resided in the state of Mississippi.

5. Q. What relationship, if any, are you to Henry. D. Burton, Susan. Cornellia, Marshall and Mrs George. W. Morrison and John F. Morrison?

A. I am the mother of the first three named persons, and mother-in-law of the last named person.

6. Q. Was your mother and father, or either of them a Choctaw Indian by blood, if so, which one of them, and whether or not you are a Choctaw Indian by blood and what degree?

A. My mother was a Choctaw Indian by blood, being one-half, but my father was not, I am also, a Choctaw Indian by blood, being one-fourth.

7. Q. What degree of Indian blood are your children named above?

- A. They are one-eighth Choctaw Indian blood.
8. Q. Are your children on the tribal roll of Choctaw Indians, stating which ones are, and which ones are not?
- A. My son, Henry D. Burton, and my daughter, Susan Cornelia, Marshall, and their children are upon the roll, as Mississippi Choctaws. But my daughter George W. Morrison, nee Burton, who inter-married with John F. Morrison, nor their children, appear upon the Mississippi Choctaw roll.
9. Q. At the time you made application to be placed on the Mississippi Choctaw roll, did you give in the name of your said daughter, George W. Morrison for enrollment?
- A. I did; in other words, I did not make application to have her enrolled, but gave in her name, together with the rest of my children showing who my children were, and this was all I could do at the time.
10. Q. Where was your daughter, George W. Morrison and her husband, John F. Morrison, and their children at the time you gave in their names, before the commission to the Five Civilized tribes?
- A. They were at Beaumont, Texas at that time.
11. Q. Do you know whether or not they moved from said Beaumont, Texas, if so, about what time and to what place or Territory did they move?
- A. I think they moved from Beaumont, Texas some time in the year 1904, and went to the Indian Territory, Choctaw Nation, where they have ever since resided, in the town of Durant.
12. Q. Do you know the names of the children of your daughter George W. Morrison and her husband, John F. Morrison; if so, give their names, ages and sex, if you know?
- A. They have five children now living with them in the Territory, to-wit: Emma Z. Morrison, eight or nine years old, a female; Anna May Morrison, six or seven years old, a female; Henry B. Morrison, a male, about five years old; Frank L. Morrison, a male, two or three years old; and Fannie H. Morrison, a female, about one year old.
13. Q. Have you ever been enrolled, as a Mississippi Choctaw, and if

STATEMENT.

On September 13, 1901, at Meridian, Mississippi, Susan S. Burton appeared before the Dawes Commission and made application for identification as a Mississippi Choctaw under the following provision of the Act of Congress of June 28, 1898:

"Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation concluded September twenty-seventh, eighteen hundred and thirty, and to that end may administer oaths, examine witnesses, and perform all other acts necessary thereto, and make report to the Secretary of the Interior."

January 15, 1902, the Commission refused her application.

March 14, 1902, the Secretary of the Interior affirmed this adverse decision.

In section 41 of the Act of Congress of July 1, 1902, there appears the following language:

" and the descendants of any Mississippi Choctaw Indians whether of full or mixed blood who received a patent to land under the said fourteenth article of the said treaty of eighteen hundred and thirty who had not removed to and made bona fide settlement in the Choctaw-Chickasaw country prior to June twenty-eighth, eighteen hundred and ninety-eight, shall be deemed to be Mississippi Choctaws"

One of Susan Burton's ancestors received a patent to land, and the action of the Commission and Department against her was rescinded and she, and other of her relatives, were identified on December 11, 1903, by the Com. to the Five Tribes.

When Susan S. Burton applied at Meridian in 1901, she said she wanted to identify her children, but the examiner wouldn't let her make application for any children that were of age or were married.

In the year 1906, petitions were filed by George W. Morrison, Laura K. McPhail, Lillie M. Fountain, Mary E. Dees and Fannie E. Wiltshire, children of Susan S. Burton, claiming that they and their children should be identified as Mississippi Choctaws.

July 6, 1906, a hearing was had at this office on these petitions. The Commission held that such children and grandchildren of Susan S. Burton as were living at the time she applied at Meridian September 13, 1901, and at the time Susan Cornelia Marshall, another relative, applied for identification on December 19, 1901, and gave in the names of her sisters, were entitled to be identified, but that it certainly could not be held that either of these women could have intended to submit applications for children who were not born at that time. However, on October 22, 1906, the Department directed the Commission to identify both the adult and minor children named in the petitions above referred to.

The Commissioner held that no application was made within the time required by the Act of July 1, 1902, for the enrollment of such of these children as were born subsequent to the dates on which Susan S. Burton and Susan Cornelia Marshall applied, and that such children could only secure their rights under the Act of April 26, 1906, by reason of being the children of an enrolled citizen.

After the parents of these children were identified and removed and settled in this country and were enrolled, the childrens' names were placed upon a roll of Minor Mississippi Choctaws under the Act of April 26, 1906, and this roll was approved by the Department. Their names were also placed upon a schedule of Identified Mississippi Choctaws under the Act of July 1, 1902, the same as their parents, but the Commissioner recommended that this latter schedule be disapproved and it is presumed that no action was taken on it by the Department as it was never returned to this office.

DEPARTMENT OF STATE
APR 14 1966
INCLUSIVE DIVISION

DEPARTMENT OF STATE
APR 3 1966
Returned with
inclosure 3 INCL 7290

AFFIDAVIT OF SERVICE.

City of Washington,)
 District of Columbia.) SS.

William W. Wright, being first duly sworn, upon oath deposes and says: He is the attorney for Mrs. Laura K. McPhail et al., mentioned in the foregoing and attached letter, addressed to the Hon. Secretary of the Interior and on the 12th day of April, 1906, served a true copy of said letter on Messrs. Mansfield, Mc Murray and Cornish, attorneys for the Choctaw and Chickasaw Nations, by mailing the same to them by registered mail, as appears from the official receipt of the postmaster hereto attached. I further depose and say that the purpose of said letter is to amend a certain petition heretofore filed and described in said attached letter, and that the same is filed in perfect good faith and not for the purposes of any delay.

William W. Wright

Subscribed and sworn to before me this 12th day of April 1906.

[Signature]
 Notary Public.

U. S. Registered Mails go to every post office in the world. Provide for safe transit and correct delivery. Letters and parcels may be registered at any post office or at any post-office station. Letters will be registered by letter carriers in the residential districts of cities. Letters and parcels will be registered by rural carriers throughout their routes. For letters and parcels delivered through U. S. post office, the sender, without charge and without delay, receives the return acknowledgment, and when delivered through a post office of a foreign country, if the words "Receipt Demanded" be indorsed on the address side of the letter or parcel.

U. S. P. O. Registry Receipt.

Letter No. 126974 P. O., Washington, D. C.
 Received for registration April 2 1906 from W. W. Wright Esq. U. S. addressed to Mansfield, Mc Murray and Cornish Esq. Alexander S. B.
 class postage prepaid. Postmaster, per Letter

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DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

-----oOo-----

In the matter of the application of Georgia W. Morrison for the identification of herself and her five minor children, Emma Z., Amma May, Henry B., Frank L., and Fannie H. Morrison, as Mississippi Choctaws, and for the identification of her husband, John F. Morrison, as an intermarried Mississippi Choctaw.

In the matter of the application for the identification of Laura K. (Ella) McPhail and her minor children, Frank, Myra, Fannie, Grace, Gates, Preston, Virgil, and Homer McPhail, as Mississippi Choctaws.

In the matter of the application of Lillie Margaret Fountain for identification as a Mississippi Choctaw.

In the matter of the application for the identification of Mary E. Dees and her children, Henry H., Mary E. Wood, George A., Walter T., Edgar R., Oscar E., Fannie E., Katiebelle and Willie W. Dees, and her grandchildren, Tommy W. Dees, Herburt Dees and Sammie D. Wood as Mississippi Choctaws.

In the matter of the application for the identification of Fannie E. Wiltshire as a Mississippi Choctaw.

STATEMENT OF FACT.

The Department on March 20, 1906 (I T D 1596-1902, 226-1905), transmitted to the Commissioner to the Five Civilized Tribes a petition filed with the Department on December 15, 1905, by Georgia W. Morrison (nee Georgia W. Burton), praying for the identification of herself and her minor children as Mississippi Choctaws and for the identification of her husband as an intermarried Mississippi Choctaw.

The Department in returning this case to the Commissioner to the Five Civilized Tribes invites attention to the record in the consolidated Mississippi Choctaw case of Susan S. Burton, et al., M. C. R. 3547, and expresses the opinion that from said record it is apparent that prior to March 25, 1903, application was attempted to be made, but was refused, on behalf of Georgia W. Morrison for her identification as a Mississippi Choctaw, and directed that she now be permitted to submit proof of her right to be so identified.

Under date of February 26, 1906, the Department referred to the Commissioner to the Five Civilized Tribes for report and recommendation, a petition of Ella McPhail (nee Burton), praying for the identification of herself and her children, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail and Homer McPhail, as Mississippi Choctaws.

The Commissioner to the Five Civilized Tribes on April 7, 1906, returned the petition to the Secretary of the Interior, inviting attention to Departmental letter of March 20, 1906 (I T D 1596-1902, 4226-1905), in reference to the alleged application for the identification of Georgia W. Morrison as a Mississippi Choctaw, and recommended that inasmuch as the two cases were identical, that the petition of Ella McPhail be returned to this office to be considered with and disposed of in conformity with the Department's instructions of March 20, 1906, transmitting the petition of Georgia W. Morrison.

April 12, 1906, William W. Wright, attorney for Mrs. Ella McPhail, filed with the Department a request for the amendment of the original petition filed on behalf of Mrs. McPhail, and that the name of the principal applicant be made to appear thereon as "Mrs. Laura K. McPhail" instead of "Mrs. Ella McPhail."

The Department on May 15, 1906 (I T D 7240, 4907, 4226-1906), returned to the Commissioner to the Five Civilized Tribes the original petition of Mrs. McPhail to be considered with and disposed of in conformity with Departmental instructions of March 20, 1906 (I T D 1596-1902, 4226-1905).

The Commissioner to the Five Civilized Tribes on June 6, 1906, notified Georgia W. Morrison, Durant, Indian Territory, C. C. McCarty, her attorney of record, Durant, Indian Territory, Laura K. McPhail, Beaumont, Texas, her attorney of record, W. W. Wright, Washington, D. C., and Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations, that he would, at his office at Muskogee, Indian Territory, on July 6, 1906, at nine o'clock A. M., hear the testimony of such witnesses as might be presented in support of the petitions for the identification of Georgia W. Morrison and her children and Laura McPhail and her children as Mississippi Choctaws.

There was filed with this office on June 11, 1906, by W. W. Wright, the attorney for the petitioner, Laura K. McPhail, the affidavit of Susan S. Burton, the mother of the said Laura K. McPhail.

June 11, 1906, there was filed with this office by William W. Wright, attorney for the petitioner, a petition of Lillie Margaret Fountain (nee Burton), praying for the identification of herself as a Mississippi Choctaw.

June 16, 1906, there was filed with this office by William W. Wright, attorney for the petitioner, a petition of Mary E. Dees praying for the identification of herself and her children, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katiebelle Dees and Willie W. Dees, and her grandchildren, Tommy W. Dees, Herburst Dees and Sannie D. Wood, as Mississippi Choctaws.

June 18, 1906, there was filed with the Commissioner to the Five Civilized Tribes by William W. Wright, attorney for the petitioner, a petition of Fannie E. Wiltshire (nee Burton), praying for the identification of herself as a Mississippi Choctaw.

June 18, 1906, there was filed with the Commissioner to the Five Civilized Tribes by William W. Wright, attorney for the petitioners, a motion to consolidate the petitions and applications of Laura K. McPhail, et al., Lillie M. Fountain, Mary E. Dees, et al. and Fannie E. Wiltshire, for identification as Mississippi Choctaws, and requesting that the hearing in the case of Laura K. McPhail, et al., set for July 6, 1906, be postponed until August 1st, 1906.

(3)

June 22, 1906, William W. Wright, attorney for the petitioners, Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al. and Fannie E. Wiltshire, requested this office by wire to withhold action on motion for postponement in case of Laura K. McPhail. This was followed by the receipt by this office on June 25, 1906, of a letter of William W. Wright of June 22, 1906, requesting the consolidation of the petitions and applications referred to, but withdrawing the motion in so far as it requested postponement of the hearing upon the petition and application of Laura K. McPhail, et al.

The principal applicants and petitioners in these cases, Georgia W. Morrison, Laura K. McPhail, Lillie Margaret Fountain, Mary E. Dees and Fannie E. Wiltshire, are the children of Susan S. Burton who was identified by a decision of the Commission to the Five Civilized Tribes of December 11, 1903, as a Mississippi Choctaw under the provisions of the 14th article of the Choctaw treaty of September 27th, 1830.

-- O R D E R --

It is hereby ordered that the motion of William W. Wright filed with this office June 18, 1906, be granted in so far as it prays for the consolidation of the applications and petitions of Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al. and Fannie E. Wiltshire.

It is further ordered that the application and petition of Georgia W. Morrison, et al. be also consolidated with and made a part of the case above referred to.

It is further ordered that the motion of William W. Wright praying for a continuance in said consolidated case until August 1st, 1906, be and the same is hereby denied, and that the hearing upon the petitions of Georgia W. Morrison, et al. and Laura K. McPhail, et al. proceed in conformity with the notices of June 6, 1906, advising the petitioners, their attorneys, and the attorneys for the Choctaw and Chickasaw Nations; that said hearing will be had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, July 6, 1906, at nine o'clock A. M.

It is further ordered that the hearing upon the petitions of Lillie Margaret Fountain, Mary E. Dees, et al. and Fannie E. Wiltshire be also had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, Friday, July 6, 1906, at nine o'clock A. M., and that notice of such hearing be immediately furnished the petitioners, their attorney William W. Wright, and the attorneys for the Choctaw and Chickasaw Nations.



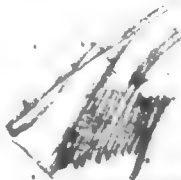
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory,

JUN 29 1906

DEAR
COMMIS-...

W. J. ...



...

...

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
Central District

In Re-Application of Georgia V. Morrison,
For Citizenship by Blood,

In Application for citizenship by Georgia V. Morrison, states the following facts:

I am
That ~~she~~ a citizen of the Choctaw Nation by Blood,

I,
That ~~she~~ was married to Frank J. Morrison a citizen by intermarriage blood of the Choctaw Nation
at Hazelhurst Miss. I. T., on the 4th day of August, 1893.

I should be
That ~~she~~ is duly enrolled as a Mississippi Choctaw citizen by blood, with enroll-
ment number

That my father's name is Henry D. Burton, age 64 years, and

my mother's name is Susan S. Burton, age 77 years.

That my brothers and sisters are named Susan; Cornelia; and Marshall,
and other facts mentioned below.

respectively.

That my marriage to Frank J. Morrison, is recorded in clerk's office of County Clerk,
Hazelhurst, Mississippi.

 Court,
the decree of the Court recognizing my citizenship by blood is recorded in the Clerk's office of
 Court, at

That my father's name is HENRY D. BURTON, and his age 74 and
my mother's name before marriage to father was SUSAN S. GIBBON, and her age is
34 years, before marriage to each other.

That my brothers and sisters are named John E. Burton; Fannie E. Wickoff; Laura
K. McPhail; Mary E. Dees; and Henry D. Burton. respectively
and reside as follows: S. Cornelia Marshall; Lillie Fountain ; and reside in
Mississippi; Texas; and the Indian Territory.

my and my husbands,
That my children's names are SUSAN Z; ANNA MAY; and Henry B. and Frank L;
and Fannie H. Morrison. and their
ages are respectively 9-7-2-2-and 6 months, old.

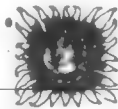
That I have lived in the Indian Territory, for the last three years
and the reason that I have not made application for my rights as an in-
dian is, I have been unable to do so before now; and that my mother,
brother, and his children are on the Choctaw Rolls.

Subscribed and sworn to before me this the 8th day of JULY, A. D. 1906:

Georgia V. Morrison
D. M. Williams
Notary Public.

..Marriage Certificate..

State of Mississippi.



Copiah Co.

By Virtue of a License from the Clerk of the Circuit Court of said County,

I have this day celebrated the

= Rites of Matrimony =

between Mr. J.F. Morrison

and Miss Georgia Burton.

Given under my hand and seal, this 4th

day of August 1895.

J.E.Thigpen. M.G. (SEAL.)

State of Mississippi.

Office of the

County of Copiah

Clerk of the Circuit Court.

This is to Certify, that the above is a copy of the Certificate of Marriage now on file in my office, and recorded in Marriage Record No. 12 at page 323

Given under my hand and seal of said Court, at Hazlehurst.

Miss., this 28th day of December 1904

D. B. Woods

Clerk of the Circuit Court.

By _____ Deputy.

(COPY)

MARRIAGE.....CERTIFICATE.

STATE OF MISSISSIPPI:-

GOPHIA CO.

By virtue of a license from the Clerk of the Circuit Court of said County, I have this day celebrated the

=RITES OF MATRIMONY=

between Mr. J. F. Morrison,

and

Miss. Georgia Burton

Given under my hand and seal, this 4th. day of August, 1905.

J. E. Thigpen, M. C. (Seal)

State of Mississippi,

County of Gophia,

Office of the Clerk of the Circuit

Court.

This is to certify that the above is a true copy of the certificate of marriage now on file in my office, and recorded No. 12, at page 323.

Given under my hand and seal of said Court, at Hazelhurst, Miss., this 28th. day of December 1904.

D. C. Woods,

Clerk of the Circuit Court.

(Seal)

By _____ Deputy.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
MUSKOGEE, INDIAN TERRITORY,
JULY 6, 1906.

IN THE MATTER of the application of Georgia W. Morrison for the identification of herself and her five minor children, Emma Z., Anna May, Henry B., Frank L., and Fannie E. Morrison, as Mississippi Choctaws, and for the identification of her husband, John F. Morrison, as an intermarried Mississippi Choctaw.

IN THE MATTER of the application for the identification of Laura K. (Ella) McPhail and her minor children, Frank, Myra, Fannie, Grace, Gates, Preston, Virgil, and Homer McPhail, as Mississippi Choctaws.

IN THE MATTER OF THE application of Lillie Margaret Fountain for identification as a Mississippi Choctaw.

IN THE MATTER of the application for the identification of Mary E. Dees and her children, Henry E., Mary E. Wood, George A., Walter T., Edgar R., Oscar E., Fannie E., Katiebelle, and Willie W. Dees, and her grand children, Tommy W. Dees, Herbert Dees and Sammie D. Wood as Mississippi Choctaws.

IN THE MATTER of the application for the identification of Fannie E. Wiltshire as a Mississippi Choctaw.

PROCEEDINGS had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, on July 6, 1906, at 9:00 o'clock a. m., in conformity with notices furnished applicants, their attorneys and the attorneys for the Choctaw and Chickasaw Nations.

APPEARANCES:

N. A. Gibson, Attorney at Law, Muskogee, Indian Territory, representing Georgia W. Morrison, and her five minor children.

William W. Wright, Attorney at Law, Washington, D. C., representing Laura K. (Milla) McPhail, and her minor children, Lillie Margaret Fountain, Mary E. Dees, her children and grand children and Fannie E. Wiltshire

G. Rosenwinkel, appearing on behalf of the Choctaw and Chickasaw Nations.

MRS. SUSAN S. BURTON, being duly sworn testified as follows:

EXAMINATION

BY THE COMMISSIONER:

- Q What is your name? A Susan S. Burton.
Q How old are you? A I am 78 today.
Q What is your postoffice address? A Durant, Indian Territory.
Q Are you the identical Susan S. Burton who made application to the Commission to the Five Civilized Tribes at Meridian, Mississippi, September 13, 1901, for identification as a Mississippi Choctaw? A Yes.
Q Have you been identified as a Mississippi Choctaw? A Yes.
Q Received and selected an allotment as a duly identified Mississippi Choctaw? A Yes sir.

MR. ROSENWINKEL: I want to put an objection in the record. The Choctaw and Chickasaw Nations object to any proceedings in this matter, and state that the records before the Commissioner show that no application was ever made by or on behalf of any of the applicants herein. That no formal application was made for their identification or enrollment prior to December 1, 1905, and that therefore, under the provisions of the Act of Congress approved April 26, 1906, the Commissioner is now without authority to hear or consider the case of the applicants.

THE COMMISSIONER: Objection noted.

BY MR. WRIGHT:

Q What was your husband's name? A Henry D. Burton.

Q How many children do you have living? A Nine.

Q Just give me their names, please?

A John E. Burton,
Fannie E. Burton,
Laura K. Burton,
Mary E. Burton,
Henry David Burton,
Hardy C. Burton,
Cernelia Susan Burton,
Margaret Lillie Burton,
George Wytah Burton.

Q At the time that you made application, September, 1901,
I believe, were some of these children married?

A Yes sir.

Q Which children were married at that time?

A My oldest son had been married. His wife was dead; and
Mary was the first one to marry after him.

Q That is Mary E. Dees? A Yes sir. And then Laura K.

Mrs. McPhail married whom? A Frank McPhail.

Q Mrs. Fountain married whom? A Alee Fountain.

BY THE COMMISSIONER:

Q Who is Mrs. Fountain? A Lillie Margaret Burton.

BY MR. WRIGHT:

Q Your daughter Lillie Margaret Burton married whom?

A Alee Fountain.

Q She married Mr. Fountain? A Yes sir, Alee Fountain.

Q And Laura K. Burton married Frank McPhail? A Yes sir.

Q And Mary E. Burton married whom? A Mr. Dees.

Q Fannie E. Burton married whom? A Steven Wiltshire.

Q Now at the time you gave your testimony, what children
had Mrs. Laura E. McPhail, if any?

A She had Frank, Myra, Fannie, Grace, Gates, Cluffy, her
half-sister.

Q What children had Mrs. Mary E. Dees, if any? *84 C 21*

A She had Hill, Estelle, George, Walter, Edgar and Austin.

Q I will ask you to look at this list and see if these are
all the children of Mrs. Dees, rather whether you
recollect them? (Hands witness a paper).

A Yes that is---Henry H. Dees, the H is for Hill, and Mary E. Wood, that is Estelle. That is all right.

BY THE COMMISSIONER:

Mrs. Burton, did you understand that question you were answering now? A No.

Q What were the names of Mrs. Dees' children living at the time you made application at Meridian. Were any of these children, whose names you were reading, born after that time?

A Tammie, Kateybel, Willie Wert.---Say it was 1901 when I made application?

Q September 13, 1901.

BY MR. WRIGHT:

Q Mrs. McPhail had children living at the time you gave your testimony in this application? A Yes sir.

Q How would you recollect?---Mrs. Burton, do you remember, I will refer to the record. It appears from the record Mrs. Burton, that at the time you gave your testimony you testified as follows:

I now read from the in your original application, the testimony that you gave at that time on page 7:

MR. ROSENWINKEL: What is the purpose of reading that testimony?

MR. WRIGHT: We want to examine into the extent of this application. That is one of the matters referred here by the Department, and in as much as it is in issue I desire to bring out all the facts relative to it.

MR. ROSENWINKEL: It seems to me that the record is the best evidence. I am objecting to the testimony being read to the witness and then have her testify about this evidence.

MR. WRIGHT: That is simply the foundation for something I wish to bring out, and I think it would be better to refer to the record to find out what she had already testified.

BY MR. WRIGHT:

Q You remember the following questions and the answers given?
A I do, some of them.

Q "Have you any children under twenty one years of age and unmarried that you desire to make application for?"

A "No sir".

Q "Your children are all grown?"

A "All grown and married but one, she teaches school".

Q "How old is she?"

A "Well I don't know, I have it here."

Q Now Mrs. Burton, when you answered that question, "I don't know, I have it here", what did you have in mind? What did you mean by that answer when you said "I have it here"?

A I had all their names copied to carry with me; thought maybe I could hand in their applications with mine.

Q Did you offer that list? A Yes sir.

Q To the officers taking the testimony? A Yes sir. And they told me I couldn't do it; that they were twenty one and they would have to come and do it themselves. Said he would take the names, though, and put them on record, and I give them to him.

Q You gave him the names of the children at that time?

A Yes sir.

Q Do you remember whom you gave these names to?

A No sir, I didn't know none of the men.

Q What office did he assume to have? Did you know any of the persons asking the questions? A No sir.

Q What did he do with this list? A I don't know; he laid it under some papers; slipped it under some papers which were lying on the table.

Q Was that a complete list of all the children you had at that time? A Yes sir.

Q How did you make that list? A I got the Presbyterian preacher to write it off for me. Took my family Bible to him and got him to write the age and name of----

Q Mrs. Burton there was, continuing this testimony, asked you "The application you are making is simply for yourself?"

A "Yes sir, I want to identify my children". - Yes.

Q At the time you gave this testimony, as you testified before, your children were all married were they. All but Mrs. Fountain, and they had children. Were you acquainted with these children at that time?

A Yes sir.

Q Would you have given the names of these children if the question had been asked you? A Yes sir, all them that was born.

Q You were perfectly willing to give the names if the question had been asked you? A Yes sir.

Q And you could have given the names? A Yes sir.

Q Could you have given the addresses of all these children if the question had been asked you at that time?

A Yes sir, I could have given all the---

BY MR. GIBSON:

- Q Mrs. Burton, you named one of your daughters as Georgia W. Burton, is she married? A Yes sir.
- Q To whom? A Frank Morrison.
- Q Is she here with you to-day? A Yes sir.
- Q Where does she live now? A Durant.
- Q Indian Territory? A Yes.
- Q Do you know how long she has lived in Durant? A She come there last November as two years ago.
- Q She has been living there for more than two years? A Yes.
- Q At the time you made application for identification in 1901 in Mississippi, where was your daughter Mrs. Morrison living? A Living at McComb City, Mississippi, wasn't she?
- Q Living in Mississippi, was she? A Yes sir.
- Q State whether or not her name was one of those you gave to the Commission? A Yes.
- Q Did you give the names of her children and the minors which were then living? A No sir.
- Q Do you know how many children she had living at that time? A Two.
- Q Are they still living? A Yes sir.
- Q Is this lady who sits beside you here Mrs. Morrison, the daughter you have identified? A Yes sir.

BY MR. ROSENWINKEL:

- Q You didn't say anything to the Commission about your grand children? A No sir.
- Q A number of your grand children were grown persons at that time? A Yes sir.
- Q You had some great grand children at that time? A Yes, my eldest great grand child was ten years old at that time.
- Q Mrs. Burton, you understand, and know that it is necessary for those grown persons to appear in person before the Commission? A Yes sir.
- Q They knew that also? A Yes sir, they told me that when I went.
- Q When did Jehn E. Burton ever authorize you to appear before the Commissioner?

THE COMMISSIONER: He has been enrolled himself, and made application himself.

BY MR. ROSENWINKEL:

- Q When and where and under what circumstances, did John E. Burton authorize you to appear before the Commissioner and apply for him as a Mississippi Choctaw? A In '98.
- Q In 1892? A He wrote to me to go to Muskogee, and I went.

- Q In 1902? A I think that is when I went. I went two falls.
Q 1902 or 1892, in which years was it John E. Burton authorized you to appear before the Commission? A 1902-03.
Q In 1902 and 1903 is the first time John E. Burton ever authorized you to appear before the Commission for him?
A He wrote to me to know what tribe we belonged to, and I wrote to him the Choctaw.
Q Fannie E. Wiltshire, where was she living when you appeared before the Commissioner? A Living in six miles of Haslehurst, Mississippi.
Q When and under what circumstances did she authorize you to appear before the Commissioner? A Didn't authorize me to.
- Q Laura K. McPhail, where was she living when you appeared before the Commission in 1901? A She was living at Abbeville, I believe, in Louisiana.
Q Are you certain about it? A I aint certain. I think that was where she lived. She is here today.
Q When and where and under what circumstances did she authorize you to appear for her before the Commissioner?
A She neber authorized me.
Q She never authorized you? A No sir.
Q What about Mary Dees? Did she ever authorize you to appear for her? A No sir.
Q Where did Mary Dees live in 1901 when you appeared before the Commissioner? A I don't remember, she moved about a good deal.
Q Did you know at that time where she lived? A I knew at that time. I don't remember now.
Q How about Hardy Burton, did he ever authorize you to appear for him? A No sir, he got killed at Cleveland, Ohio, on a bridge.
Q When? A 1988.
Q 1988? A Yes sir.
Q Did you have his name on that list you claim to have given the Commissioner? A Yes sir.
Q It was your purpose then to apply for Hardy Burton, who had died a number of years prior to that time?
A Yes sir, I thought I would put in all the names, and may be it would do them some good.
Q How about Cornelia? A Never applied for her.
Q Did she ever authorize you to make application for her?
A No, she had put in hers here. Her husband sent me money to go to Meridian and put in my own application there.
Q She appeared here? A Yes sir---They asked me one day if I had any children that had applied, and I told them H. D. Burton and Cornelia had applied.
Q Then some of these petitioners applied before the time you appeared? A Yes sir. My son and Mrs. Marshall.
Q How about Margaret Lillie Fountain? A She was in Durant.
Q She was in Durant when this conversation started about appearing before the Commission? A Yes sir.
Q She knew it was necessary for her to appear? A Yes sir, that is what they told me.
Q She never authorized you to make any application for her, did she? A No sir.
Q How about Georgia Morrison? A No, her and Lillie put in their names at the same time.
Q That is here recently isn't it? A Two years ago.
Q Two years ago? A Yes sir.

- Q At the time you appeared before the Commission and made these applications, where were Lillie and Georgia living?
- A Georgia lived at McCamb and Lillie lived at Abbeville, Louisiana.
- Q Where were you living at that time? A Five miles of Haskelhurst, Mississippi.
- Q You and all of your children and relatives, all of you understand clearly that it was necessary for you to appear before the Commission in person and apply, didn't you? A Yes sir.
- Q Tell us why it was that these children of yours didn't appear? A They claimed they didn't have the money to spend on it, and didn't think they would get it, and they was afraid to risk it.
- Q They didn't think enough of the claim to spend any money on it? A They didn't have the money to go any wheres on.
- Q They understood clearly it was necessary for them to appear?
- A Yes sir.

MR. WRIGHT: We object to that question, as to what they understood.

THE COMMISSIONER: Objection noted.

BY MR. WRIGHT:

- Q At the time you made application for identification as a Mississippi Sheetrock, you had talked this matter over with your children and had discussed the prospects, which you had in conversations with them relative to a claim out in the Indian Territory?
- A Yes sir, we had talked it over a good many times, but they claimed they wasn't able to do anything.
- Q I shall ask you whether any of your children assisted you financially in the presentation of your application?
- A Yes, my son and Mr. Marshall, Cornelia's husband, sent me money from Durant.
- Q Well when you prepared this list of your children---what was the reason you prepared this list? A I thought about it. I never done it until a day or two before I had done it. I thought it might be some advantage to the children. I was going to Haskelhurst and I just took my family Bible along and got the Presbyterian minister to scan it off for me.
- Q Mrs. Burton, referring to the record, which I now quote from, your testimony on page 7, the question was asked "Who is John B. Burton?" (Answer) "He is my oldest son." "Is he living?" (Answer) "No, he died last January was a year, he leaver a daughter, she lives in Haskelhurst."

Q Who was that daughter? A Sallie Marks.

THE COMMISSIONER: That is extraneous to this record. I will have to exclude that. That is a new proposition.

MR. WRIGHT: We wish to say in that connection that the people who are present and who are relatives of this daughter authorized us to prosecute her application, which we assume is pending at the time. It may be that it is not properly consolidated with these petitions, that are already on file; but however, we intend to make an effort to have her application considered at this time. In as much as the record is consolidated with all these matters, it is presumably a matter for consideration at this time, and she is of the very same family.

A (Witness) Yes her mother died, and I raised her from two years old.

MR. WRIGHT: The witness present has probably the best knowledge in regard to this application, she is getting rather old, and I think under all the circumstances it is proper to have her testimony taken at this time in regard to this person, because as a matter of fact all these people who are mentioned in the original record of Susan S. Burton, et al., has been whether or not there is any pending application. In view of that fact I take it that all of the persons whose names are mentioned in that record are applicants and, for the best interest of the whole hearing, necessarily consolidated.

THE COMMISSIONER: Do I understand that the contention of counsel for the petitioners is to introduce evidence on behalf of persons who were not applicants for citizenship in the original record of Susan S. Burton?

MR. WRIGHT: Yes, we claim that the record discloses the fact that the children of Susan S. Burton, whose names are mentioned in the testimony of Susan S. Burton, shows that they were married. It shows that the Commission had notice at the time that they were heads of families, and in view of the rulings of the Department, and having especial reference to the case of Isaac La Fiere, it was the duty of the Commission at that time, inasmuch as the name of the individual is mentioned, and it also appearing that they were of the family, it was the duty of the Commissioner to pursue the inquiry further.

As a matter of fact in the testimony of Mrs. Burton, when an attempt was made to pursue the question further she was interrupted and she was prevented from giving the names of these children by the act of the Commissioner himself. Therefore, we take the position that it is not necessary for us to prove that the names of these grown children were specifically mentioned in the record.

In regard to John E. Burton-----

MR. ROSENWINKEL: Whatever the Secretary or the Commissioner may have held prior to the passage of this Act, that now neither the Secretary or the Commissioner have authority to inquire into these things unless certain conditions exist. It was necessary that a formal application must have been made.

MR. WRIGHT: I don't think it is formal.

MR. ROSENWINKEL: Well, application. She says that she wants to identify her children, and there the subject is dropped. She testifies now that she didn't know where her children lived at that time. They never all authorized her to appear for them.

BY MR. WRIGHT:

Q Where is she living today?

MR. ROSENWINKEL: That is objected to, for the reason that the person referred to is not a petitioner before the Commissioner in this case.

BY MR. WRIGHT:

(To witness) Now answer.

MR. ROSENWINKEL: What is the ruling of the Commissioner?

THE COMMISSIONER: What is the purpose of this testimony?

MR. WRIGHT: I think that it is the duty of the Commissioner to take this testimony in this case for the identification of this daughter, and it may be that the Commissioner later on will rule that the case involves a different point from the other children whose contentions are being litigated. But it is necessary to get

this in the record before the Commissioner can intelligently pass upon the record; and to preserve the evidence of Mrs. Burton, who is a very aged witness, and whose testimony may not be available.

THE COMMISSIONER: Can Mrs. Burton testify any more than she has testified? Simply that this girl is the daughter of John E. Burton, her dead son.

BY MR. WRIGHT: We want to ask her about two more questions.

Q Mrs. Burton is this daughter of John E. Burton's you are testifying of, married or single?

MR. ROSENWINKEL: We renew our objections and give the same reasons as heretofore stated.

THE COMMISSIONER : I will have to sustain the objection there, because this one has not made any claim whatever. This is for the purpose of identifying the daughter of John E. Burton, deceased. The witness has simply testified to everything in her knowledge.

BY MR. WRIGHT:

Q Now Mrs. Burton, has this daughter of John E. Burton any children? A Yes sir.

MR. ROSENWINKEL: Objected to.

THE COMMISSIONER: Objection sustained. We will sustain an objection to that.

MR. WRIGHT: I want it to go in the record that I have attempted to identify this daughter of John E. Burton, and her children, if she has any.
I now offer to prove by this witness, Susan E. Burton, that John E. Burton who is referred to on page seven of the testimony of Susan E. Burton, et al., Mississippi Choctaw applicants, has a daughter who is now residing in Fernwood, Mississippi, and that her name is Sallie V. Marx--
The wife of whom? (Addressing Mrs. Burton),

(12-)

THE COMMISSIONER: Wait a minute. You are getting testimony in there.

BY MR. WRIGHT: - -

Q And that she has a number of children --

A (Witness) - Five.

Q all minors, whose names the witness now offers to give.

MR. ROSENWINKEL: Testimony objected to for the reason that the persons named are not parties to this cause.

BY MR. WRIGHT:

Q Mrs. Burton, are Mrs. McPhail and Mrs. Fountain present today in Muskogee? A Yes sir.

(Witness dismissed).

MRS. GEORGIA W. MORRISON, being duly sworn testified as follows:

BY THE COMMISSIONER:

Q What is your name? A George W. Morrison.

Q Georgia or George? A George.

Q You are a female, are not you? A Yes sir.

Q How old are you? A Twenty six.

Q Where do you live? A Durant, Indian Territory.

BY MR. GIBSON:

Q Where do you live? A Durant, Indian Territory.

Q How long have you lived at Durant? A Two years.

Q In what month and year did you move there to live?

A I don't believe I just know the month.

Q What relation are you to Mrs. Susan S. Burton who has just testified in this case? A I am her daughter.

Q Are you married? A Yes.

Q What is your husband's name? A Frank Morrison.

Q Are you living with him at Durant? A I am.

Q Before coming to Durant, where did you live? A Beaumont, Texas.

Q For how long? A Three years.

- Q And before that where did you live? A Mississippi.
Q Have you any children? A I have.
Q How many? A Five?
Q Give their names and ages, beginning with the oldest?
A Emma Z. Morrison, 10 years old,
Q Ten years old? A Yes sir.
A Anna Morrison.
Q Age? A Eight years old.
A Henry Burton Morrison, five years old,
Frank Wert Morrison, three years old,
Fannie Hazel Morrison, one year old.
Q After coming to Indian Territory, state whether you made application to the Commissioner to the Five Civilized Tribes for enrollment as a Mississippi Choctaw?
A We did.
Q Who represented you in your application, what agent or attorney? A Mr. McCarty.
Q Do you know about when that application was made?
A I don't know the date, ever a year ago.
Q Have any of your children been born since 1901? A Yes.
Q Which ones, if any? A I have three born.
Q Three born during the past five years? A Yes sir.
Q That would be---? A Henry Burton.
Q Henry was born in what month? A March.
Q 1901? A Yes sir.
Q Then you have only two born in the past five years?
A Yes sir.
Q Frank L., when was he born? A He was born in 1902.
Q And Fannie, the baby? A In 1905.
Q 1905? A Yes sir.

MR. GIBSON: Mr. Bell, we want to make reference to the letter of the Commissioner dated July 21, 1905, to C. C. McCarty, Durant, Indian Territory, who this witness has testified was her attorney and representative at that time. The letter acknowledges the receipt of the application for the identification of this petitioner as a Mississippi Choctaw.

MR. ROSENWINKEL: I am willing that the letter shall go in.

CROSS EXAMINATION

BY MR. ROSENWINKEL:

- Q This application made by C. C. McCarty, about a year ago was the first application ever made by you or in your behalf for identification as a Mississippi Choctaw?
A We applied to the Dawes Commission and to the Secretary of the Interior.
Q When was it that you applied to the Secretary and the Dawes Commission? A Two years ago. The first year after I came here.

- Q Prior to this time Mr. McCarty wrote the Commission?
A Yes sir.
Q The application that you made two years ago to the Secretary and the Dawes Commission, I will ask you if that was the first application of any character ever made by you or in your behalf? A My mother tried to apply for us, but she was turned down, they said she couldn't do it.
Q She didn't make any application?

MR. WRIGHT: The Secretary said she did.

BY MR. ROSENWINKEL:

- Q Did you authorize your mother to make application for you?
A It was understood she was doing what she could for us.
Q Did you ever tell her or go with her before the Dawes Commission and apply for you? A No sir.
Q As a matter of fact you don't know just when she went to the Dawes Commission, do you? A No sir.
Q Where were you living at the time she went before the Dawes Commission? A In Beaumont.
Q In Beaumont? A I have been in Beaumont over six years.

(Witness dismissed).

MRS. LAURA K. McPHAIL, being duly sworn testified as follows:

BY THE COMMISSIONER:

- Q What is your name? A McPhail.
Q What is your age? A Forty eight.
Q Where do you live? A Beaumont, Texas.

BY MR. WRIGHT:

- Q How long have you lived in Beaumont, Texas? A Well, about ten years.
Q Where did you live prior to that time? A I came from Haslehurst, Mississippi to Orange, Texas, and lived two years, then moved to Beaumont.
Q Have you children, Mrs. McPhail? A I have eight.

- Q Please give their names and ages, beginning with the oldest.
Give it slowly so it can be taken down.
A Frank McPhail, 25 years old. He is married and has one child.

MR. WRIGHT: What is the name of that child?

MR. ROSENWINKEL: As a rule, I understand that the Commissioner in proceedings of this kind holds that it is necessary to file a petition, and the Nations object to this testimony, for the reason that no petition has been filed for this one.

MR. WRIGHT: I think it might just as well go in with the petition of Mrs. McPhail herself.

MR. ROSENWINKEL: We will object to considering any person except those mentioned in the petition.

THE COMMISSIONER: The hearing will be confined to the allegation contained in the petition under investigation.

MR. WRIGHT: You overrule my offer to identify the children and grand children of Mrs. McPhail?

THE COMMISSIONER: Yes.

BY MR. WRIGHT:

- Q Just go on?
A Myra McPhail, 23 years old,
Fannie McPhail, 21 years old,
Grace McPhail, 19 years old,
Gates McPhail, 17 years old,
Preston McPhail, 15 years old,
Virgil McPhail, 10 years old,
Homer McPhail, 8 years old.
Q Where do these children live? A All live in the house with me, except the eldest one, married. The rest are all single.
Q Live in the City of Bogalusa? A Yes.
Q Have you ever applied for identification as a Mississippi Sheeter? A Not until I applied through our attorney here last year.
Q Do you remember on or about the time Mrs. Susan H. Burton appeared before the Commission for identification as a Mississippi Sheeter? A The first time?

- Q Yes? A Why yes, I remember it. I can't remember the time. I suppose about 13 years ago, probably. I don't think I could give the date, my recollection it has been that long.
- Q Did you talk with your mother, Mrs. Susan S. Burton, in regard to the Indian Territory claims of the family? Prior to the time she made application? A Yes, we had talked about it before I left Mississippi, before she made the first trip.
- Q What understanding was there, if any, in regard to any application in your behalf? A We were told and taught that if mother went through we would all follow, and of course we all waited for her to identify, thinking that we would be allowed the same afterwards. But as she failed, we took no further steps in regard to the matter. Didn't suppose it would do any good.
- Q You understood that your mother had been rejected, or was some complication in regard to her enrollment?
- A Yes, that was what we understood about it.
- Q Now, going back to about the year 1901, do you recall having any conversation with your mother in regard to her application? A Yes, we talked of it every time we were together, and still thought we might come in.
- Q Did you contribute anything towards the expense?
- A Yes sir, we helped her as she come through Beaumont on her way out some.
- Q Did you understand that an application was to be made for you by your mother?

MR. ROSENWINKEL: We object to what her understanding was as to what should be done.

BY THE COMMISSIONER: Now to get this record straightened out.

- Q You say that Mrs. Burton stopped at Beaumont on her way to make application? A Yes sir.
- Q When was that? A I don't know exactly the date.
- Q Where was Mrs. Burton living at that time?
- A Haslehurst, Mississippi. Come from Haslehurst to Beaumont.
- Q Where was she going? A Coming to Indian Territory.
- Q For what purpose? A To see about this land.
- Q Wasn't that after her rights had been determined?
- A No sir.
- Q You know when Mrs. Burton made her application?
- A I can't say that I do.
- Q Know where she made it? A I don't know. She come to Durant and went some where else, I don't know where she went.

BY MR. WRIGHT: (Repeating his last question)

- Q Did you understand that an application was to be made for you by your mother? A I did.

MR. ROSENWINKEL: What was the ruling on that question?

THE COMMISSIONER: Objection sustained as to what her mother was going to do.

BY MR. WRIGHT:

- Q Did you authorize your mother to make any kind of an application for you at the time she made application for herself? A I wasn't with her. It was always understood that when mother went through, we went through. When she said her going through would put us through.
- Q Was it understood that your names should be given in at that time? A Yes sir.

BY MR. ROSENWINKEL:

- Q When was the first time you talked to your mother about this matter, at the time she passed through Beasment?
- A No. That time about 13 years ago. I was then in Mississippi. She talked about coming out here to see-- Coming out here.
- Q Now 13 years ago, your mother or some one for her, did come to the Territory, did they? A Mother came herself.
- Q She went to the Choctaw Tribal Council at that time?
- A I don't know--she.
- Q What is your understanding? A I understood that she tried to get the land.
- Q That was a separate and distinct matter. Your understanding that has nothing to do with applying to the Dawes Commission for identification as a Mississippi Choctaw-- You understand that, don't you? A Yes sir.
- Q Taking up the history of this case. When was the first time that you and your mother had a conversation about her application for identification as a Mississippi Choctaw? When and where and under what circumstances?
- A Well, she come through Beasment and said she was coming to the Territory to my sister's and brother's, and they was going to try again for the land.
- Q From the time she came here in 1893 up to the time she passed through Beasment, you had no conversation with her about the matter? A No sir, I don't think it was mentioned any more.
- Q Don't you know, as a matter of fact, it was a long in about the summer of 1903 when your mother passed through Beasment on her way to the Indian Territory? A Yes sir.
- Q Then your statement now is that the first time you ever spoke to her about your identification was in the summer of 1903, when your mother was on her way to the Indian Territory?
- A Yes, I think that was the first time since--

- Q Then the money that you gave your mother, Mrs. McPhail, was to defray her expenses to come to the Indian Territory to get her land and to prepare her citizenship case?
- A It was to help her.

BY MR. WRIGHT:

- Q Mrs. McPhail, do you remember when your mother made application at Meridian, Mississippi, about the year 1901, for identification as a Mississippi Choctaw?
- A I only remember they wrote to me about it. They wrote me about her going there. She did herself, perhaps. I know nothing only what I heard her say.
- Q How long prior to that time had you seen Mrs. Burton?
- A I suppose it had been four or five years, I can't say for certain.
- Q Where were you living when you contributed this money to aid her? A In Beaumont.
- Q How long had you lived there at that time? A I had lived there I suppose about six years. We have been there about ten years.
- Q As a matter of fact then, this money must have been given Mrs. Burton about the year 1901?
- A I expect it was. I am not certain. She come through in July and stayed a month or two, and went on to Durant I think it was in October or November.
- Q You were evidently mistaken about a conversation 13 years ago? A I told you it was 12 or 13 years ago before I left Mississippi. I could have written down the dates. I didn't know it was necessary. That was the year before I left Mississippi, and I have been away from there about 12 or 13 years.

BY MR. ROSENWINKEL:

- Q A few minutes ago, in response to my question, you stated that according to your best judgment it was in the fall of 1903 that your mother, Susan S. Burton, passed through Beaumont, and that at that time you gave her money to assist her in coming out to the Territory, and just now you state it was in 1901. Which date was it?
- A I told you I didn't remember the date. If I had to state the dates, I couldn't tell you to save my life.
- Q You are certain it was when Mrs. Burton was on her way to the Indian Territory? A Yes, I am certain about that.

BY MR. WRIGHT:

Q All of your children are still living, whose names you have given? A Yes, my children are all living.

MR. WRIGHT: In regard to the attempted application for the daughter of John E. Burton, I now wish to make the same sort, the same remarks as was attempted to be made by the witness Susan S. Burton.

THE COMMISSIONER: Do I understand an attempt to prove by this witness something that would be out of her knowledge? This woman has never made any application or testified prior to this date.

MR. WRIGHT: I offer to identify by this witness the daughter of John E. Burton.

THE COMMISSIONER: The hearing will be confined strictly to the hearing of the allegations of the petition.

(Witness dismissed.)

MRS. LILLIE MARGARET FOUNTAIN, being duly sworn testified as follows:

BY THE COMMISSIONER:

Q What is your name? A Mrs. Lillie M. Fountain.

Q Your age? A 38 years old, last day of June.

Q Your postoffice address? A Right now at Durant. I live at Humble, Texas.

Q Where did you live prior to going to Durant? A Humble, Texas.

Q How long have you been living in Durant?

A Just come there for this case. I moved to Durant the 15th day of November, 1904 for the purpose of getting my claim to property and made my application here at Durant.

Q You are living in Durant now? A No sir, I am not living in Durant now. My home is at Humble.

Q Are you married? A Yes sir.

Q What is your husband's name? A E. Fountain.

- Q Have you any children? A No sir.
- Q Are you the daughter of Mrs. Susan S. Burton who has testified here? A Yes sir.
- Q Do you remember on or about the year when Mrs. Burton made application to be identified as a Mississippi Choctaw? Do you remember the event? A About 1901?
- Q Yes? A Yes sir.
- Q Or about the time she made application? A The last time? Yes.
- Q The first or last time? A Yes sir.
- Q How long have you been living in Humble, Texas?
- A I went there from Durant the 15th day of May, 1905, to Humble, Texas.
- Q Did you visit Mrs. Burton about the year 1901 or 1903, or have you seen her or conversed with her at all, about those times?
- A Yes sir. I was living at Sour Lake in 1903, when she passed through going to Durant to make application. She spent a week with me in Sour Lake, Texas.
- Q Have you ever made application for identification as a Mississippi Choctaw, Mrs. Fountain?
- A I did. I tried to in 1904 or 1905.
- Q What success did you have? A Why, it was very little. I wrote the Secretary of the Interior and the letter was referred to the Dawes Commission, and the Dawes Commission informed me in another letter that the rolls were closed and I was too late. On the 13th day of January, 1905, there was an enrolling committee come to Durant enrolling babies and delinquents.
- Q January, 1905? A The 13th of January, 1905.
- Q Did you appear before that Committee? A I appeared before that Committee for enrollment.
- Q Were you enrolled? A They refused at first, and then through the influence of the lawyer they took our names.

THE COMMISSIONER: The Commissioner had no appointment of any character during the month of January, 1905 at Durant.

BY MR. WRIGHT:

- Q Before whom did you go in Durant? A They claimed it was a Committee of the Dawes Commission. I don't know what it was. Just what the paper said.

MR. WRIGHT: I desire to introduce at this point two letters received from, one from the Chief Clerk of the Interior Department and another from the Commissioner to the Five Civilized Tribes. The first dated December 6, 1904, and December 10, 1904, respectively, showing that this applicant had correspondence with the Commissioner to the Five Civilized Tribes in regard to her claim. (Said letters appear in the petition of Mrs. Lillie Margaret Fountain and the same are marked Exhibits "A" and "B", and attached thereto.

(Witness). That is the letter. (Referring to the letter dated April 15, 1905 - I T D 3409-1905).

MR. WRIGHT: I also desire to offer in evidence letter from the Assistant Secretary of the Interior dated April 15, 1905. (Letter is attached to original copy of testimony of Mrs. Lillie Margaret Fountain of this date, and marked Exhibit "A".)

BY MR. WRIGHT:

- Q Mrs. Fountain, at the time you had the conversation with your mother, Mrs. Burton was anything said in regard to her claim in the Indian Territory, and your claim and the claims of the family?
- A Yes sir, we spoke of that; that my brother John E. Burton had his claim, that is he had land. We supposed he had it and settled on it. And she thought we would all get our land here through her application.

MR. ROSENWINKEL: We move that all of the answer of the witness be excluded, on the ground that the witness has simply related in regard to what her mother told her and as to what she thought.

MR. WRIGHT: She is telling us what she thought.

MR. ROSENWINKEL: That would be equally in-competent.

THE COMMISSIONER: Objection noted.

BY MR. WRIGHT:

- Q How do you remember talking the matter of these claims over with Mrs. Burton, your mother, before the time she made application, and while her case was being litigated, being tried---Did you have any conversation with her? A Before?
- Q Yes, before she made---
- A Yes sir, we have often talked about getting us a home, and when we would meet. We thought if Mother received her land we would get ours, too.
- Q Did she ask you to put her name in at the time she made her application? A Yes sir.
- Q Now Mrs. Fountain, are you acquainted with Mrs. Laura K. McPhail---is she your sister? A Certainly.

- Q Are you acquainted with the members of her family?
A I think I ought to be. Yes.
Q I will read you the names of her children, and I wish you to tell me if you know them,
Q Frank M. McPhail? A Yes sir.
Q Myra McPhail? A Yes sir.
Q Grace McPhail? A Yes sir.
Q Gates McPhail? A Yes sir.
Q Preston McPhail? A Yes sir.
Q Virgil McPhail? A Yes sir.
Q Homer McPhail? A Yes sir.
Q Do you know whether or not any of them are married?
A The oldest, Frank, is married.
Q You have seen all these children, have you? A Yes sir.
Q Are they living? A Yes sir, all living.

BY MR. ROSENWINKEL:

- Q When did your mother first make application to the Commission for identification as a Mississippi Choctaw?
A Thirteen years ago, I think.
Q At that time did you authorize her to apply for your identification also? A Yes sir.
Q You did? A Yes sir.
Q Just when, where and under what circumstances was it? Can you recall the particular time?
A I can't give you the exact time, the particular time.
Q Where was it? A Meridian, Mississippi.
Q Thirteen years ago at Meridian, Mississippi, you told your mother to apply for your identification?
A I wasn't there.
Q I am not saying anything about that. I asked you when it was? A You asked me if I was making application.
Q Listen: I asked you whether or not you, yourself, authorized and directed your mother to apply for your identification. Whether you told your mother to go to the Commission and apply for you. Now you say that you did, and you say 13 years ago at Meridian, Mississippi? Is that right?
A I don't know whether it was 13 years ago. I knew that she made application. I don't know exactly when it was.
Q When did you authorize her to apply for you?
A When she came through going----. I think about 13 years ago when she made application, it was understood that she applied for all her children.
Q When did you first authorize her to apply to the Dawes Commission for you? A About 13 years ago.
Q You are positive about that? A Yes sir.
Q What other---When was the first time you authorized her to apply for you? A When she came through Four Lake in August, 1903, on her way to Durant to make application.
Q That was the first time? A Yes, next time.

- Q Mrs. Fountain -- is that your name?--- Don't you know that 13 years ago the Dawes Commission was not hearing applications of any kind? A I don't know what Commission it was.
- Q I asked you, if you don't know of your own knowledge, that the Dawes Commission did not receive applications of any character 13 years ago? A I don't know.
- Q Why did you say that your mother appeared 13 years ago and applied to the Dawes Commission for your identification? A Did I say that I authorized her to apply to the Dawes Commission?
- Q Yes? A If I did, I said that she made application about 13 years ago, and I don't know whether it was to the Dawes Commission or not, or what Commission it was.
- Q When she came to Sour Lake on her way to Durant, how long had it been prior to that time since you had seen her-- How many years? A Well, she was in Orange Texas. It had been three or four years since I saw her as well as I remember.
- Q Three or four years before that? A Yes sir. She came to Orange and stayed quite awhile, and then she came to Louisiana. And then she came on her way on to Orange and stayed a month. I think it was about three or four years ago.
- Q Just what was said then between you and your mother? Did you say to her that you wanted her to apply to the Dawes Commission and apply for your identification when she was at Sour Lake the last time?

MR. PARKER: At Orange?

BY MR. ROSEWINKEL:

- Q In that same neighborhood? A I don't remember that I did.
- Q Nothing said about that application at that time?

MR. WRIGHT: When she said that she told her to apply---

BY MR. ROSEWINKEL: I asked her and she said she didn't. I am examining the witness now.

- Q Did you either at Sour Lake or at Orange at the time your mother passed through from Mississippi, via these places that were just mentioned to the Territory ask her in so many words to go before the Dawes Commission and apply for your identification as a Mississippi Choctaw?
- A I did at Sour Lake, when she passed through there in 1903.
- Q That was in the fall of 1903? A In August.
- Q In August, 1903? A Yes.
- Q That was the first time you ever asked your mother, and only time from the time that she first appeared before the Commission up to August, 1903, to apply for your identification?

- A That was the first time that I asked her pointedly to do it, but we had understood it when we were children.
Q I don't care to know about your understanding.

BY MR. WRIGHT:

- Q Mrs. Fountain, you have understood the attempts made by your mother to be enrolled and recognized as a member of the Choctaw Nation for several years past, haven't you?
Do you remember whether she made any attempt ten, twelve or fifteen years ago to be admitted by the Choctaw Council, for yourself and others related to you?
A I suppose it was the Choctaw Council, 13 years ago.
Q Now in your conversations, often, as far back as her attempts to be admitted by the Council have you understood, had the understanding with Mrs. Burton that your name would be presented when an opportunity offered? A I have. I understood my name would be presented with the others, all her children.
Q What names---Your name, you have reference to? A I suppose that she presented the other children when she did--
Q You had talked with others in regard to the claim of your family in the Choctaw Nation? A We often talked of it.

MR. WRIGHT:

IN THE MATTER of the application for the identification of Fannie E. Wiltshire.

- Q You knew Mrs. Fannie Wiltshire? A Yes sir.
Q Is she a sister of yours? A My oldest sister.
Q Where does she reside? A In Mississippi.
Q When did you last see Mrs. Wiltshire personally?
A Been 12 or 13 years ago.
Q Do you correspond occasionally? A Yes sir.
Q Are you familiar with her writing? A Yes sir.
Q Just look at that signature, please, down at the bottom, and see if that is Mrs. Wiltshire's signature?
A Yes sir, that is her signature.

MR. WRIGHT: We offer now the affidavit of Mrs. Wiltshire in this petition signed by Mrs. Wiltshire.
(Petition is attached to original copy of testimony of Mrs. Lillie Margaret Fountain of this date, marked Exhibit "B".)

MR. ROSENWINKEL: What is the purpose of offering that?

MR. WRIGHT: Part of the attempt to identify them. I am going to identify Mrs. Wiltshire to be the one named by the petition, showing that she is this petitioner as a matter of fact, and now I propose to introduce her petition. (Petition previously introduced marked Exhibit "B").

THE COMMISSIONER: That seems to be an encumbrance to the record.

MR. ROSENWINKEL: I don't object to the petition going in the record, except I would object to its going in as testimony.

MR. WRIGHT: I don't introduce it as---I simply want to show she is identified here as the applicant in the paper filed for her.

BY MR. WRIGHT:

Q Has Mrs. Wiltshire any children? A She has not.
Q She is still living? A Yes sir.
Q Is she your younger sister? A My oldest sister.
Q Oldest sister? A Yes sir.

MR. WRIGHT: I offer to identify Mrs. Mary E. Dees.

THE COMMISSIONER: Is she here?

MR. WRIGHT: She is not here.

Q Mrs. Fountain, do you know Mrs. Mary E. Dees? A Yes sir.
Q Where does she reside? A She lives in Mississippi.
Q Is she a relative of yours? A My sister.
Q Full sister? A Yes sir.
Q Daughter of Mrs. Susan E. Burton? A Yes sir.
Q When did you see Mrs. Dees last? A About fifteen years ago.
Q Fifteen years ago? A Yes sir.
Q Whom did she marry? A She married William Dees.
Q Has she a family? A Yes sir.
Q Do you know how many children she has? A She has eight the last I know of her. I think she has more than that now, I am not certain.
Q Would you know the names of these children if you heard them read? A I would know the names of all of them before I left there that I kept up with.

THE COMMISSIONER: Let the witness state the names.

BY MR. WRIGHT:

State the names:

- A Bill Dees,
Estell Dees,
George Dees,
Walter Dees,
Eagar Dees,
the other names I don't know.
- Q You have personal knowledge of the names of the children that you have given? A Yes sir.

BY MR. ROSEWINKEL:

- Q It has been fifteen years since you have seen any of these Dees people, hasn't it? A About that time.
- Q You have no personal knowledge whether they are living now or not? A No sir.

(Witness dismissed).

MRS. LAURA K. McPHAIL, recalled.

BY MR. WRIGHT:

- Q Mrs. McPhail, do you know Fannie E. Wiltshire?
- A My oldest sister.
- Q Do you know Susan S. Burton? A Yes sir.
- Q Where does she reside--What state? A She is in Mississippi, Hazlehurst, I believe she is still at Hazlehurst.
- Q When did she marry? A Steven Wiltshire.
- Q Any children? A Never had any children.
- Q Still living? A Yes sir.
- Q Do you know Mrs. Mary E. Dees? A Yes sir.
- Q What relation is she to you? A My sister, yes sir.
- Q Full sister? A Yes sir.
- Q Daughter of Mrs. Burton? A Yes sir.
- Q What state does she reside in? A She is in Mississippi.
- Q When did she marry? A W. H. Dees.
- Q When did you see Mrs. Dees last? I haven't seen her in 13 or 14 years, since I left Mississippi.
- Q Has she any children, to your knowledge? A Yes.

A I believe there is nine.
 Q Have you seen any of these children? A Yes, I have seen five of them.
 Q Could you give their names? A Yes sir, Henry Hill is her oldest; Hill is the oldest boy, and Estell is the oldest daughter, and George and Walter, and I believe the next one is named Robert. She had a little baby when I left. A little girl, the other three children, I don't know them.

(Witness dismissed)

MRS. SUSAN S. BURTON, recalled:

BY MR. WRIGHT:

Q Mrs. Burton, when did you last see Mrs. Mary E. Dees, your daughter? A Some time last December.
 Q Last December? A Yes sir.
 Q Are you acquainted with her children? A Yes sir.
 Q Could you give the names of all her children who were living at the time you were there last December? A Yes sir.
 Q Give them from your recollection? A Yes sir: Hill Dees.
 Q He is also known as Henry H. Dees? A Yes sir.
 Q Do you know his age? A No sir; Mary E. Wood.
 Q Her name is now Wood? A Yes sir; George.
 Q Do you know her age (Referring to Mary E. Wood)? A No sir.
 Q When did Mary E. Wood marry? A Garry Wood.
 Q Where does she reside? A In Mississippi City, Mississippi.
 Q Has Mary E. Wood any children? A Has one.
 Q What is the name of that child? A I don't remember.
 Q A baby? A It is about, I don't remember.
 Q Could you remember the name if the name was pronounced?
 A I don't know as I could.
 Q Is the name Sammy? A I believe that is the name. It is named after his grand pa Wood, and his name is Sam Wood.
 Q Do you know about what age the child is? A It is over a year old.
 Q Give the other children we have now, after Henry H. and Mary Wood. Proceed with the other members of Mrs. Dees' family?
 A George.
 Q Do you know his age? A Yes sir, he is 21.
 Q Next one?
 A Walter.
 Q How old is he? A I don't recollect.
 Q About his age? A I reckon 16 or 17.
 Q Next one?
 A Edgar.
 Q Age? A 18 or 19.

Q Next one?
A Oscar; about two years younger.
Q Making him about 12 years old? A Yes sir.
Q And the next one?
A Fannie; 10 years old.
Q Next one?
A Kateybell; about 8 years old.
Q Next one?
A Willie Vert.
Q Age? A About five.
Q Referring to Henry H. Dees, is he single? A No he is
married.
Q Married? A Yes.
Q Has he any children? A Yes sir, has two boys.
Q About how old are they? A The oldest is four years old.
Q Do you know their names? A Thomas is the oldest one.
I don't remember the other one, I knowed it but I
don't remember.
Q Would you recall it if mentioned? Was it Herbert?
A I believe that is it.
Q All of these children you have mentioned are still living?
A Yes sir. Hill Dees is in Memphis, Tennessee.

(Witness dismissed).

MR. WRIGHT: For the purpose of making the record as complete as possible, I now desire to offer the affidavit of Mary E. Dees, an applicant, at this hearing, setting forth the names of her children, their ages and, in a general way, the family tree.

MR. ROSENWINKEL: Objected to, and state that it is an ex parte affidavit, taken without notice to the Attorneys for the Choctaw and Chickasaw Nations.

Affidavit of Mary E. Dees, above referred to, is attached to the original copy of the testimony hereof, marked Exhibit "G".

MR. WRIGHT: I desire to offer the affidavit of Henry H. Dees, who appears to be the only married son of Mrs. Dees, and giving in general the family tree of the family, and particularly the names and ages of his two children.

MR. ROSENWINKEL: To which the Nations object, for the reasons heretofore stated.

THE COMMISSIONER: Objection noted.

Affidavit of Henry H. Dees, above referred to, is attached to the original copy of the testimony hereof, marked Exhibit "D".

MR. WRIGHT: I also desire to introduce the affidavit of Mrs. Fannie E. Wiltshire.

MR. ROSENWINKEL: Objected to for the same reasons as the other two.

Affidavit of Mrs. Fannie E. Wiltshire, above referred to, attached to original copy of testimony hereof, marked Exhibit "E". (Same exhibit as is introduced on page 24 of testimony hereof.)

I, S. T. Wright, stenographer to the Commissioner to the Five Civilized Tribes, on oath state that I recorded the proceedings in full had in the above named cause, and that the foregoing is a true and correct transcript of my stenographic notes thereof.

S. T. Wright

Subscribed and sworn to before me this the 12th day of July, 1906.

H. H. Davis

NOTARY PUBLIC.

748P

O.L.J.
L.B.A.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the identification of George W. Morrison, et al., as Mississippi Choctaws.

D E C I S I O N .

The Department on March 20, 1906 (I.T.D. 1596-1902, 4226-1905), transmitted to the Commissioner to the Five Civilized Tribes a petition filed with the Department on December 15, 1905, by George W. Morrison (nee Georgia W. Burton), praying for the identification of herself and her minor children, Emma Z., Amma May, Henry V., Frank L. and Fannie H. Morrison as Mississippi Choctaws, and for the identification of her husband, John F. Morrison, as an intermarried Mississippi Choctaw.

The Department, in returning said case to the Commissioner to the Five Civilized Tribes, invited attention to the record in the consolidated Mississippi Choctaw case of Susan S. Burton, et al., (M.C.R. 3547), and expressed the opinion that from said record it was apparent that prior to March 25, 1903, application was attempted to be made, but was refused, on behalf of George W. Morrison, for her identification as a Mississippi Choctaw, and directed that she be permitted to submit proof of her right to be so identified.

Under date of February 26, 1906, the Department referred to the Commissioner to the Five Civilized Tribes for report and recommendation, the petition of Ella McPhail (nee Burton), praying for

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the identification of herself and her children, Frank, Myra, Fannie, Grace, Gates, Preston, Virgil and Homer McPhail, as Mississippi Choctaws.

The Commissioner to the Five Civilized Tribes, on April 7, 1906, returned said petition to the Secretary of the Interior, inviting attention to Departmental letter of March 20, 1906 (I.T.D. 1596-1902, 4226-1905), in reference to the alleged application for the identification of George W. Morrison as a Mississippi Choctaw, and recommended that inasmuch as the two cases were identical, that the petition of Ella McPhail be returned to this office to be considered with and disposed of in conformity with Departmental instructions of March 20, 1906, remanding the petition of George W. Morrison.

April 12, 1906, W. W. Wright, attorney for Mrs. Ella McPhail, filed with the Department a request for the amendment of the original petition filed on behalf of Mrs. McPhail, and that the name of the principal petitioner be made to appear therein as "Mrs. Laura K. McPhail" instead of "Mrs. Ella McPhail."

The Department on May 15, 1906 (I.T.D. 7240, 4907, 4226-1906), returned to the Commissioner to the Five Civilized Tribes the original petition of Mrs. McPhail to be considered with and disposed of in conformity with the Department's instructions of March 20, 1906 (I.T.D. 1596-1902, 4226-1905).

The Commissioner to the Five Civilized Tribes, on June 6, 1906, notified George W. Morrison of Durant, Indian Territory, C. C. McCarty, her attorney of record, Durant, Indian Territory, Laura K. McPhail, Beaumont, Texas, her attorney of record, W. W. Wright, Washington, D. C., and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, that he would at his office at Musko-

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gee, Indian Territory, on Friday, July 6, 1906, at nine o'clock A.M., hear the testimony of such witnesses as might be presented in support of the petitions for the identification of George W. Morrison and her children, and Laura K. McPhail and her children, as Mississippi Choctaws.

There was filed with this office on June 11, 1906, by W. W. Wright, attorney for the petitioner, Laura K. McPhail, the affidavit of Susan S. Burton, the mother of said Laura K. McPhail.

June 11, 1906, there was filed with this office by W. W. Wright, attorney for the petitioner, the petition of Lillie Margaret Fountain (nee Burton), praying for the identification of herself as a Mississippi Choctaw.

June 16, 1906, there was filed with this office by W. W. Wright, attorney for the petitioners, the petition of Mary E. Dees, praying for the identification of herself, and her children, Henry H., George A., Walter T., Edgar R., Oscar E., Fannie E., Katiebelle and Willie W. Dees and Mary E. Wood, and her grandchildren, Tommie W. Dees, Herbut Dees, and Sammie D. Wood, as Mississippi Choctaws.

June 18, 1906, there was filed with the Commissioner to the Five Civilized Tribes by W. W. Wright, attorney for the petitioner, the petition of Fannie E. Wiltshire (nee Burton), praying for the identification of herself as a Mississippi Choctaw.

June 18, 1906, there was filed with the Commissioner to the Five Civilized Tribes by W. W. Wright, attorney for the petitioners, a motion to consolidate the petitions and applications of Laura K. McPhail, et al., Lillie M. Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire for identification as Mississippi Choctaws, and requesting that the hearing in the case of Laura K. McPhail, et al., set

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for July 6, 1906, be postponed until August 1, 1906.

June 22, 1906, W. W. Wright, attorney for the petitioners, Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire, requested this office, by wire, to withhold action on the motion for postponement in the case of Laura K. McPhail. This was followed by the receipt by this office on June 25, 1906, of a letter of W. W. Wright of June 22, 1906, requesting the consolidation of the petitions and applications referred to, but withdrawing the motion in so far as it requested a postponement of the hearing upon the petition and application of Laura K. McPhail, et al.

June 29, 1906, the Commissioner to the Five Civilized Tribes ordered that the motion of W. W. Wright, filed with this office on June 18, 1906, be granted in so far as it prayed for the consolidation of the applications and petitions of Laura K. McPhail, et al., Lillie M. Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire; that the application and petition of George W. Morrison, et al., be also consolidated with and made a part of the case above referred to; that the motion of W. W. Wright praying for the continuance in said consolidated case until August 1, 1906, be denied, and that the hearing upon the petitions of George W. Morrison, et al., and Laura K. McPhail, et al., proceed in conformity with the notices of June 6, 1906, advising the petitioners, their attorneys of record, and the attorneys for the Choctaw and Chickasaw Nations, that said hearing would be had before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, on July 6, 1906, at nine o'clock A. M.; and that the hearing upon the petitions of Lillie Margaret Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire be also had before the Commissioner to the Five Civilized Tribes at his

office at Muskogee, Indian Territory, Friday, July 6, 1906, at nine o'clock A. M.; and that notice of such hearing be immediately furnished the petitioners, their attorney, W. W. Wright, and the attorneys for the Choctaw and Chickasaw Nations.

In conformity with said order, the applicants, their attorney, and the attorneys for the Choctaw and Chickasaw Nations were notified thereof.

July 6, 1906, proceedings were had in the matter of the foregoing petitions in accordance with the notices above mentioned, at which time it was attempted to establish that an application had also been made for the identification of Sallie V. Marx as a Mississippi Choctaw within the time limited by the Act of Congress approved July 1, 1902 (32 Stats., 641).

July 23, 1906, there was filed with this office a petition on behalf of Moses, Miriam, Phillip Aaron, Susan Burton and Ruby Marx, minor children of the petitioner, Sallie V. Marx, praying that they be enrolled as Mississippi Choctaws.

There was also filed with the Commission to the Five Civilized Tribes written application for the identification of Lucy J. Burton as an intermarried Mississippi Choctaw.

On September 13, 1901, Susan S. Burton, mother of the petitioners, George W. Morrison, Laura K. McPhail, Mary E. Dees, Lillie M. Fountain and Fannie E. Wiltshire, in the matter of her application for identification as a Mississippi Choctaw, testified:

- "Q Have you any children under twenty-one years of age and not married that you desire to make application for?
A No sir.
Q Your children are all grown? A All grown and married but one; she teaches school.
Q How old is she? A Well, I don't know; I have it here.
Q How old is she? A I think she is thirty.
Q She is over twenty-one years of age? A Yes sir.

- Q The application you are making is simply for yourself?
A Yes sir, I want to identify my children.
Q Well, you are making application for yourself now; we could not allow you to make any application for your children who have attained their majority; they will have to appear in person as representatives for themselves and families?
A Yes sir."

On December 19, 1901, Susan Cornelia Marshall, also a daughter of Susan S. Burton, in the matter of her application for identification as a Mississippi Choctaw testified:

- "Q Can you give the names of your brothers and sisters?
A John Ezra Burton, Fannie E. Burton, Laura K. Burton, Mary E. Burton; do you want their maiden names?
Q Just continue as you are? A Henry V. Burton, Hardy C. Burton, Cornelia S. Burton, Lillie M. Burton and George W. Burton
Q You have given the names of all your brothers and sisters?
A Yes sir.
Q They are all sons and daughters of Susan S. Burton?
A Yes.
Q Now, yourself and your brothers and sisters derive their Choctaw blood from the same source that Susan S. Burton does?
A Yes sir."

Relative to the petitioner, Sallie V. Marx, Susan S. Burton, the grandmother of said petitioner, on September 13, 1901, testified:

- "Q Who is John E. Burton? A He is my oldest son.
Q Is he living? A No, he died last January was a year ago. He leaves a daughter. She lives in Hazelhurst."

It does not appear from the records in the possession of this office that applications of any nature whatsoever have ever been made for the identification of Emma Z. Morrison, Anna May Morrison, Henry V. Morrison, Frank W. Morrison, Fannie H. Morrison, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail, Homer McPhail, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katiebelle Dees, Willie W. Dees, Tommie W. Dees, Herburt Dees, Sammie D. Wood, Moses Marx, Miriam Marx, Phillip Aaron

Marx, Susan Burton Marx and Ruby Marx as Mississippi Choctaws within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641).

The evidence in this case shows that the petitioners, Frank McPhail, Myra McPhail, Fannie McPhail, Henry H. Dees, Mary E. Wood and George A. Dees, were all adults on March 4, 1906.

It appears from the record herein that the petitioners, George W. Morrison (thirty-seven years of age), Laura K. McPhail (forty-eight years of age), Mary E. Dees (forty-seven years of age), Lillie M. Fountain (thirty-eight years of age), and Fannie E. Wiltshire (fifty-one years of age), are the children of Susan S. Burton, who, on December 11, 1903, was identified by the Commission to the Five Civilized Tribes as a Mississippi Choctaw, under the provisions of Article Fourteen of the Treaty of 1830, and approved by the Secretary of the Interior February 5, 1904; and that the petitioner, Sallie V. Marx (thirty-one years of age), is the daughter of John E. Burton (deceased), who was also a child of said Susan S. Burton.

I am of the opinion that the records herein show that application was made for the enrollment of Laura K. McPhail, Mary E. Dees, Lillie M. Fountain, Fannie E. Wiltshire and Sallie V. Marx as Mississippi Choctaws within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and that their applications should be determined upon their merits, and it is so ordered.

I am further of the opinion that the evidence in this case fails to establish that any application was ever made for the identification of Emma Z. Morrison, Amma May Morrison, Henry V. Morrison, Frank W. Morrison, Fannie H. Morrison, Frank McPhail, Myra McPhail,

Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail, Homer McPhail, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katie-belle Dees, Willie W. Dees, Tommie W. Dees, Heriburt Dees, Sannie D. Wood, Moses Marx, Miriam Marx, Phillip Aaron Marx, Susan Burton Marx, and Ruby Marx as Mississippi Choctaws within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and I am now without authority to receive or consider their applications for identification as Mississippi Choctaws under the provisions of the Act of Congress above cited, and I, therefore, decline to receive the same, and it is so ordered.

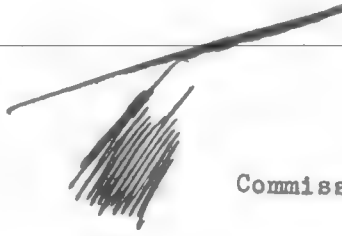
I am further of the opinion that as to Frank McPhail, Myra McPhail, Fannie McPhail, Henry H. Dees, Mary E. Wood and George A. Dees, they having been adults on March 4, 1906, I am without authority to receive or consider their applications for enrollment as citizens of the Choctaw Nation under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and I, therefore, decline to receive the same, and as to the other petitioners, who were minors on March 4, 1906, no action can be taken at this time inasmuch as their parents are not upon the approved roll of Mississippi Choctaws.

I am further of the opinion that George W. Morrison, Laura K. McPhail, Mary E. Dees, Lillie M. Fountain, Fannie E. Wiltshire and Sallie V. Marx should be identified as Mississippi Choctaws under the provisions of Article Fourteen of the Treaty of 1830, and it is so ordered.

I am further of the opinion that under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), no person is entitled to identification as a Mississ-

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Mississippi Choctaw by marriage, and that the applications made for the identification of John F. Morrison and Lucy C. Burton as intermarried Mississippi Choctaws should, therefore, be refused, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

AUG -6 1906

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so, what is your

A. Yes, I am upon the roll, as a Mississippi Choctaw, No. M. C. R. 3547.

14. Q. Has any of your children been placed upon the Mississippi Choctaw roll, if so, which one, giving their number of enrollment?

A. Yes, my son, Henry D. Burton is upon such roll, No. 1556, and my daughter, Susan Cornelia Marshall, No. 3181. They were placed on said roll, November the 24th, 1903, by the Secretary of the Interior, and approved by the Commission to the Five Civilized Tribes, December the 11th, 1903, together with their children.

15. Q. If you know of any reasons why your daughter, George W. Morrison, other than the right herein shown, then, state it, should be placed on the Choctaw role as a Mississippi Choctaw?

A. First, because, she is a Mississippi Choctaw, having indian blood as a descendent of myself, who is a Mississippi choctaw, and enrolled as such. Second, because, I and her brother, Henry D. Burton and sister, Susan, Susan Cornelia Marshall, nee Burton, have been placed upon the roll as Mississippi Choctaws, and enjoying their indian rights, and third, because, justice and fair treatment demand that they be also placed upon the roll along with us and all her kindred enjoying these rights, together with her children and husband.

Susan S. Burton

Sworn to and subscribed before me at my office
in the town of *Hog Lake* County of
Leflore State of *Mississippi* this the *26*
day of *November* A. D. 1905.

J. Long Chaucer

E. O. Notary public of the County of *Leflore* State of
Mississippi.

*My Commission expires
on this Monday of January 1908.*

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 21, 1905.

C. C. McCarty,
Durant, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 12th instant, enclosing applications for the identification of Georgia Morrison and Lucy J. Burton as Mississippi Choctaws.

In reply your attention is invited to the following provision of the Act of Congress approved July 1, 1902, which was ratified by the citizens of the Choctaw and Chickasaw Nations September 25, 1902:

"The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement."

You will note from the above quoted provision of law that the time within which such applications could be received expired March 25, 1903. Therefore this office has no authority to receive or consider the original application of any person for identification as a Mississippi Choctaw.

Respectfully,



Commissioner.

REFER IN REPLY TO THE FOLLOWING

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, January 29, 1906.

C. C. McCarty,
Durant, Indian Territory.

Dear Sir:

Under date of January 9, 1906, you transmitted to this office a petition on behalf of Mrs. George W. Morrison and her minor children, Emma Z., Anna May, Henry B., Frank L. and Fannie H. Morrison for enrollment as Choctaw Indians, and on behalf of John F. Morrison for enrollment as a citizen by intermarriage of the Choctaw Nation.

This petition was originally directed to the Secretary of the Interior and verified by the petitioners on December 12, 1905. Attached thereto are the depositions of George W. Morrison and John F. Morrison, the joint affidavit of Henry D. Burton and Susan Cornelia Marshall, the deposition of Susan S. Burton and the marriage certificate of J. F. Morrison to Georgia Burton of August 4, 1895. The petition and the exhibits attached thereto were referred by the Secretary of the Interior to this office for consideration and appropriate action, December 15, 1905, and were on December 26, 1905, returned to you.

It appears that these persons claim a right to enrollment not as citizens by blood and intermarriage of the Choctaw Nation,

C C McCarty 2

but to identification as Mississippi Choctaws by reason of being co-relatives of and the descendants of the same common ancestor as Henry D. Burton, Susan Cornelia Marshall and Susan S. Burton, who have heretofore been identified by the Commission to the Five Civilized Tribes as Mississippi Choctaws.

It does not appear that these petitioners within the time prescribed by the Act of Congress approved July 1, 1902 (32 Stats., 641), ever made any application of any character whatsoever to the Commission to the Five Civilized Tribes for identification as Mississippi Choctaws. The time within which such applications could be received by said Commission expired March 25, 1903, and it does not appear that the petitioners took any steps whatever looking to any rights they might possibly have had until some time in the year 1905.

There is no action to be taken in this matter further than to return the petition to you with the advice that the same cannot be considered for the reason that the petitioners did not submit their applications for identification as Mississippi Choctaws within the time prescribed by law.

The petition and accompanying papers are therefore herewith returned.

Respectfully,

W. O. Beall
Acting Commissioner.

Maskogee, Indian Territory, January 23, 1906.

R. A. Hafner,
Attorney at Law,
Beaumont, Texas.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 15th instant, requesting to be advised as to making application for the "McPhail family." Inasmuch as you refer to their relationship to Mrs. Susan S. Burton, who is a Mississippi Choctaw, it is presumed that you desire to make application for these persons for identification as Mississippi Choctaws.

In reply your attention is invited to the following provision of the Act of Congress approved July 1, 1902, which was ratified by the citizens of the Choctaw and Chickasaw Nations September 25, 1902:

"The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement."

Under the above legislation this office is now without authority to receive or consider the original application of any person for identification as a Mississippi Choctaw.

Respectfully,

JAMES BERRY

Acting Commissioner

C.C. McCarty,
Durant Indian Territory,
P.O. Box 102.

Durant Indian Territory,

February 12, 1906,

To The Honorable. Assistant Attorney General. Frank L. Campbell,

Department of the Interior.

Washington, D. C.,

Dear Sir.

Inclosed herewith is a Re Application Mrs. George W. Morrison and her minor children, Emma Z, Anna May, Henry B, Frank L, and Fannie H, Morrison, for enrollment as Choctaw Indians, And on behalf of John F Morrison, for enrollment as a Citizen by Intermarriage of the Choctaw Nation.

She made Application in Mississippi in the year of 1902. Thru her Mother. Which at that time lived in Beaumont, Texas, and her family.

And then were told that she had to make an Re-Application to be come a Citizen of the Tribe. And she did so on about the 12 of July, 1905.

And sent the same to the said Commission To the Five Civilized Tribes.

Which will show you in as testimony in this case

And the said Commission. Said they had no authority to receive the said Applications. And then it were then sent to the Secretary Of the Interior.

On the day of December, 1905,

to the Commission To The Five Civilized Tribes. For an investigation case reopened,

Then referred the papers to me to have the Applicants

to them with an exact copy of the same to

And then they sent the same to me again

of the same.

And now the said Applicant comes to your Honor. And Praying that they be adjudged by your Honor. And by the Treaties of 1866. And 1830. And 1896. And 1902, that each of them be included as Chectaw Indian. By blood, and by Intermarriage. The records will show to your Honor in this case without any trouble that the Applicants are entitled to be included as such,

~~All of the said Sisters and Brothers are all on the Roll and her Mother~~
all so. And is the Law going to rob these Applicants of their rights on the account of not being able to move to the said Chectaw Nation.
at a set time.

I think that your Honor will hold. It ^{is} matters where these Applicants were. That they are entitled to their part of their land and moneys.
And from the reading of these different Affidavits you will find that these Applicants are entitled to become Citizens of the Chectaw Nation.

And they and each of them Pray that they will be Adjudged by your Honor
And then you say whether they are entitled to be included as Chectaw Indians
are not.

Hoping for a favorable report.

Yours. Respectfully,

Written for George W. Morrison,



United States of America,
Central District,
Indian Territory.

To the Honorable Tans. Sixy Commissioner to the Five Civilized Tribes of Indians, Muskogee, Ind, Ter'y. 1/8/1906.

Sir:

Heretofore the annexed and subjoined application of George W. Morrison and John F. Morrison for and in behalf of themselves and children, together with the facts stated therein, and the annexed affidavits of facts, were sent direct to the Secretary of the Interior, at Washington, for his consideration and action, and the same was by the Secretary of the Interior referred to you for your action, and your office sent same back to O' C. McCarty, acting in behalf of the applicants, without action on your part, further than as shown by your letter.

Now, therefore, for and in behalf of all said applicants, I hereby refer back to you for your consideration, inspection and action, the said application, sworn to by the applicants, stating the facts required under recent ruling for enrollment, accompanied by the facts and sworn testimony, constituting facts, why the said applicants should be recognized as Choctaw Indians, and as such placed upon the roll of Choctaw Indians.

In view of the facts and rulings recently promulgated, these applicants pray that, they be considered and this application be considered, in connection with their sworn application, and the facts and written evidence connected herewith, and adjudged and recognized as Choctaw Indians, etc.

O. C. McCarty
Representing all
Applicants

DEPARTMENT OF THE INTERIOR (COPY)
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. March 12, 1906.

Land.
15624-1904.
18046-1906.

The Honorable,

The Secretary of the Interior.

Sir:

The Office is in receipt of Departmental letter of February 23 (I.T.D.1921-1906), enclosing a communication to the Assistant Attorney General for the Interior Department, dated February 12, 1906, from C. C. McCarty, submitting certain papers in behalf of George W. Morrison and family, claimants as Mississippi Choctaws.

The Department requests the Office, in connection therewith, to examine the record in the case of Susan S. Burton, et al., the subject of Departmental letters of November 24, 1903, and March 4, 1904, particularly as to whether any application was made for the identification of George (Georgia) W. Burton, the wife of George W. Morrison, as alleged in two affidavits submitted.

An examination of the records in the Mississippi Choctaw case of Susan S. Burton, et al., has been made in reference to the inquiry of the Department. The affidavit of Georgia W. Morrison, the daughter of Susan S. Burton, contains

the statement, "She (Susan S. Burton) gave the names of her children at the time she made application for enrollment, except those whose names were already enrolled, including applicant."

There is nothing in the record in the Susan S. Burton case to support this contention except that on page 2 of the record, which contains a part of the examination of Susan S. Burton, the following appears:

- Q. The application you are making is simply for yourself?
A. Yes, I want to identify my children.

The name of this daughter was not given by Mrs. Burton in connection with her examination. The affidavits and papers submitted by Mr. McCarty and the original record in the Susan S. Burton case are enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

KBH-Y.

(2)
COPY

I.T.D. 1896-1902.
4226-1905.
D.C. 10946-1906.

DEPARTMENT OF THE INTERIOR
WASHINGTON

OR

L.L.B.

March 20, 1906.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

November 24, 1903, the Department declared that Susan S. Burton, Henry D. Burten, Susan Cornelia Marshall, and certain other named applicants were entitled to identification as Mississippi Choctaws. The right of one George, or Georgia, W. Morrison, named in the record as sister to applicant Susan Cornelia Marshall, to be identified as a Mississippi Choctaw, was not passed upon in said decision.

December 15, 1905, the said George, or Georgia, W. Morrison, nee George W. Burten, filed with the Department her petition showing that she is the daughter of Susan S. Burton, a brother to Henry D. Burten, and a sister to Susan Cornelia Marshall, duly identified Mississippi Choctaws, all being descendants of the same common ancestor, that she was a resident of Beaumont, Texas, at the date of their identification, and believed that application had been made for her identification.

January 29, 1906, you returned said petition to C. C. McCarty, of Durant, Ind. T., with the statement that "It does not appear that these petitioners within the time prescribed by the act of Congress approved July 1, 1903 (32 Stat., 641), ever made

any application of any character whatsoever to the Commission to the Five Civilized Tribes for identification as Mississippi Choctaws."

A careful examination of the original record in the case of Susan S. Burton et al., M.C.R. 3547, returned herewith, shows that on page 2 of said record, Susan S. Burton stated in answer to "Q. The application you are making is simply for yourself?" A. Yes, sir, I want to identify my children," and the examiner stated to her then (September 13, 1901), at Meridian, Miss., "we can not allow you to make any application for your children who have attained their majority, they will have to appear in person as representatives for themselves and families." Consequently, Susan S. Burton, in her examination, failed to mention the name of her daughter, Georgia W. Morrison, who, it is shown, was then married and residing at Beaumont, Texas, but on pages 66 and 67 of said record, Susan Cornelia Marshall, daughter of Susan S. Burton, in her examination at Muskogee, Ind. T., on December 19, 1901, named as one of her sisters George W. Burton, whom she declared to be a girl, named George W. Burton, a daughter of Susan S. Burton and the wife of Frank Morrison, thus identifying George, or Georgia, W. Morrison as one of the children of applicant Susan S. Burton, and a sister to applicants Henry D. Burton and Susan Cornelia Marshall, who were afterwards duly identified as Mississippi Choctaws.

(3)

In the language of the Department in re enrollment of Isaac LeFlore et al. as Choctaws by blood (I.T.D. 8840, August 5, 1905), "this information was obtained for the Commission within the time prescribed by ^{said} section 34 and was in every respect fully and completely the legal equivalent of an application made in due time, it being considered immaterial whether the initial steps looking to the enrollment of an applicant be taken in any instance by the applicant himself or by the enrolling authorities. After the investigation was once instituted, the subsequent proceedings, by way of investigation, were proper and in accord with the prevailing practice." The prevailing practice as to the identification of Mississippi Choctaws was to allow applications to be made on behalf of absentees and the examiner committed error when he refused permission to the mother, Susan S. Burton, "to identify her children," as requested by her; as departmental regulations approved August 8, 1899, requiring applicants to personally appear before the Commission was expressly waived as to Mississippi Choctaws by departmental letter of October 19, 1900 (I.T.D. 3432), but "prior to being finally enrolled any such applicant must appear before the Commission." A distinction is drawn between identification and enrollment (I.T.D. 3777, December 3, 1900).

The Department is of opinion that prior to March 26, 1903, application was attempted to be made, but refused, on behalf of Georgia W. Morrison for her identification as a Mississippi Choctaw and she should now be permitted to submit proof of her right

(5)

(4)

to be so identified.

The record in the case of Susan S. Burton et al., together with petition of Georgia W. Morrison et al., are returned to you for adjudication of the right of applicants to be identified as Mississippi Choctaws, after allowing applicants to submit proof of such right.

Respectfully,

Thos Ryan

First Assistant Secretary.

2 inclosures.

7438

COPY.

Muskogee, Indian Territory, April 7, 1906.

The Honorable

The Secretary of the Interior.

Sir:

The Department, under date of February 26, 1906, referred to the Commissioner to the Five Civilized Tribes for report and recommendation, a petition entitled;

"In re Application of Susan S. Burten, et al.,
 Mississippi Choctaw Applicants," presented by William
 W. Wright, Attorney at Law, Washington, D. C., on behalf of
 Mrs. Ella McPhail, Frank McPhail,
 Myra McPhail, Fannie McPhail,
 Grace McPhail, Gates McPhail,
 Preston McPhail, Virgil McPhail,
 Homer McPhail.

The petition alleges that the principal applicant, Ella McPhail, is the daughter of Susan S. Burten, who at some time on or before the year 1902 made application, with other members of her family, for identification and enrollment as Mississippi Choctaws; that on March 4, 1902, an opinion was rendered by the Secretary of the Interior remanding the case of Susan S. Burten for further consideration by the Commission to the Five Civilized Tribes, and that on November 24, 1903, the applicants mentioned in said application, including said Susan S. Burten and

certain members of her family, were ordered enrolled by the Secretary of the Interior as Mississippi Choctaws.

It is then claimed that prior to the submission of the application of Mrs. Burton for identification as a Mississippi Choctaw she was a resident of Washburn, Mississippi, and in making the journey to the Indian Territory for the purpose of making her formal application she traveled by the way of Beaumont, Texas, and remained several days in said city visiting her daughter, Ella McPhail; that during the sojourn of Mrs. Burton in Beaumont the matter of making an application to the Commission to the Five Civilized Tribes for identification as Mississippi Choctaws was thoroughly discussed and it was agreed that Mrs. McPhail and her family were to raise part of the necessary funds sufficient to enable Mrs. Burton to make application in behalf of herself and the family of Mrs. McPhail.

It is further stated that the petitioner, Ella McPhail, was ignorant of the requirements in reference to the submission of personal applications and being under the impression that one member of a family could make application for a number of the same family, she has rested upon the supposition that her mother, Susan S. Burton, submitted the application for the identification of herself and her children as Mississippi Choctaws.

The petition then calls attention to the fact that the record in the case of Susan S. Burton would seem to indicate that

Mrs. Burton did, as a matter of fact, attempt to make application for her daughter, Ella Mc.Phail, but that she was prohibited from so doing by the peremptory remarks of the Commission.

The petition then refers to the testimony of Susan S. Burton as follows:

"Q Have you any children under twenty-one years of age and unmarried that you desire to make application for?

A No sir.

Q The application you are making is simply for yourself?

A Yes, sir, I want to identify my children.

Q Well, you are making application for yourself now; we cannot allow you to make any application for your children who have attained their majority; they will have to appear in person as representatives for themselves and family.

A Yes sir,"

and alleges that it is obvious that Susan S. Burton was endeavoring to make application in behalf of Ella Mc.Phail and her family and that it was the duty of the Commission to the Five Civilized Tribes to receive and consider such application so that the same might have been spread upon its records.

It is further alleged that from the time Susan S. Burton made her personal application for identification as a Mississippi Choctaw, Ella Mc.Phail supposed she was included in said application and since being advised of the identification of her mother and other members of the family she has been expecting to have land allotted to her.

The petition concludes with the following prayer: -

1. That the attempted application of said Susan S. Burton may be construed as an application in fact for and in behalf of your petitioner and her said family, made as of the date of said Susan S. Burton's testimony.

2. That your petitioner may submit necessary proof, showing her relationship to said Susan S. Burton, and upon proper proof of said relationship, that she and her said children be ordered identified as Mississippi Choctaws.

3. And for such other and further relief as may seem just and proper in the premises for the complete protection of the rights of your petitioner and her said family."

Attached to the petition is the affidavit of William W. Wright showing service of a copy thereof upon Messrs. Mansfield, McMurray & Cerniak, the attorneys for the Choctaw and Chickasaw Nations, and the joint affidavit of F. H. McPhail and his wife, Lura K. McPhail.

With the return of the petition I have the honor to report that it does not appear from the records of this office that any formal application was made for the identification of Ella McPhail and her children, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Freston McPhail, Virgil McPhail and Homer McPhail, prior to March 25, 1903, nor does it appear from the records of this office that any steps were taken by Mrs. McPhail within the time prescribed by the Act of Congress approved July 1, 1902 (32 Stat., 641), in the matter of the right to identification of herself and children as Mississippi Choctaws.

The original record in the consolidated Mississippi Choctaw case of Susan S. Burton, et al., is now before this office,

having been returned with Departmental letter of March 20, 1906 (I.T.D. 1596-1902, 4226-1905).

On page 2 of the testimony of Susan S. Hurton given at Meridian, Mississippi, September 13, 1901, appear the following questions and answers:

- *Q Are you married? A No, my husband is dead.
Q Have you any children under twenty-one years of age and unmarried that you desire to make application for?
A No sir.
Q Your children are all grown? A All grown and married but one, she teaches school.
Q How old is she? A Well, I don't know, I have it here.
Q How old is she? A I think she is thirty.
Q She is over twenty-one years of age? A Yes sir.
Q The application you are making is simply for yourself?
A Yes sir, I want to identify my children.
Q Well, you are making application for yourself now; we cannot allow you to make any application for your children who have attained their majority; they will have to appear in person as representatives for themselves and families? A Yes sir."

The case of the petitioner, Mrs. M. Phail, seems to be identical with that of Mrs. George or Georgia W. Morrison, the subject of Departmental letter of March 20, 1906.

The Department in transmitting the petition of Mrs. George W. Morrison to the Commissioner, states as follows:

"The Department is of opinion that prior to March 25, 1903, application was attempted to be made, but refused, on behalf of Georgia W. Morrison for her identification as a Mississippi Choctaw and she should now be permitted to submit proof of her right to be so identified."

The attention of the Department is invited to the fact that in the petition herewith transmitted the principal petitioner

is named as Mrs. Ella Mc.Phail, while the affidavit attached thereto is signed Laura K. Mc.Phail.

On page 65 of the original record in the Susan S. Burton case and in the testimony of Susan Cornelia Marshall, daughter of the said Susan S. Burton, in her examination at Muskogee, Indian Territory, on December 19, 1901, named as one of her sisters, Laura K. Burton, and testified in reference to her as follows:

"Q Where does Laura K. Burton live? A In Texas.
Q Who did she marry? A F. W. Mc.Phail.
Q Has she ever been before the Commission? A Yes sir."

The facts in reference to the petition of Mrs. Mc.Phail are apparently identical with those submitted in the petition of Georgia W. Morrison.

I therefore have the honor to respectfully recommend that the petition of Mrs. Mc.Phail, herewith transmitted, be returned to this office to be considered with and disposed of in conformity with the Department's instructions of March 20, 1904 (I.T.D.1594-1902, 4226-1905), transmitting the petition of Georgia W. Morrison.

It is suggested that the matter receive the early consideration of the Department, in order that the hearing upon the two petitions may be had at the same time and place.

Respectfully,

SIGNED *Tams Bixby.*
Commissioner.

Through the
Commissioner of Indian Affairs.
Enclosures.

7438

(COPY)

G.R.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

D.C. 19224-1906.
I.T.D. 7240-1906.
4907-1906.
4226-1906.

May 15, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with your recommendation of April 7, 1906, the original petition of Mrs. Laura K. McPhail, with request for leave to amend said petition by correcting the name of petitioner, erroneously stated therein as Mrs. Ella McPhail, to Mrs. Laura K. McPhail, is returned to you, through the Indian Office, to be considered with and disposed of in conformity with departmental instructions of March 20, 1906 (I.T.D. 1596-1902, 4226-1905), in remanding the record in the matter of an alleged application for the enrollment of Georgia W. Morrison, with whom petitioner, Mrs. Laura K. McPhail, is said to be identical.

Thereis also inclosed for your consideration, the recommendation of S.B. Cooper, Esq., of Beaumont, Texas, relative to petitioner, Mrs. Laura K. McPhail.

Respectfully,

(Signed) Jesse H. Wilson

Through the Commissioner
of Indian Affairs.
3 inclosures.

Assistant Secretary

M C R 3547

COPY.

Muskogee, Indian Territory, June 6, 1906.

G. G. McCarty,

Durant, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on July 6th, 1906, at nine o'clock A. M., hear the testimony of such witnesses as may be presented in support of the alleged rights of Mrs. George W. Harrison and her children to be identified as Mississippi Choctaws.

Respectfully,

SIGNED

Tama Bixby

Commissioner.

Registered.

REFER IN REPLY TO THE FOLLOWING

M C R 3547

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 6, 1906.

Mrs. George W. Morrison,

Durant, Indian Territory.

Dear Madam:

You are hereby notified that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Friday, July 6, 1906, at nine o'clock A. M., hear such testimony as may be presented by you in support of your alleged rights to identification as a Mississippi Choctaw.

Respectfully,



Commissioner.

Registered.

7438
M C R 5007

Muskogee, Indian Territory, June 6, 1906.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Friday, July 6th, 1906, at nine o'clock A. M., hear the testimony of such witnesses as may be presented in support of the alleged rights of Mrs. George W. Morrison, et al. to be identified as Mississippi Choctaws.

Copy of Departmental letter in this matter, dated March 20, 1906, is herewith enclosed for your information.

Respectfully,

Commissioner.

Registered

McM 6/5

7438
MUR 2222

Muskogee, Indian Territory, June 29, 1906.

William W. Wright, Attorney at Law,

5
Corcoran Building,
Washington, D. C.

Dear Sir:

There is enclosed herewith copy of an order of the
Commissioner to the Five Civilized Tribes dated June 29, 1906,
consolidating the petitions for identification as Mississippi
Cheetaws of

Georgia W. Morrison, et al.,
Laura K. McPhail,
Lillie Margaret Fountain,
Mary E. Dees, et al.,
Fannie E. Wiltshire,

and setting a hearing upon said petitions to be had at the office
of the Commissioner to the Five Civilized Tribes at Muskogee,
Indian Territory, on Friday July 6, 1906, at 9:00 a. m.

Respectfully,

Commissioner.

Enclosure registered.

STW 0/29

7438

MUR 2007

Muskogee, Indian Territory, June 29, 1906.

C. C. McCarty,

Darant, Indian Territory.

Dear Sir:

There is enclosed herewith copy of an order of the Commissioner to the Five Civilized Tribes dated June 29, 1906, consolidating the petitions for identification as Mississippi Choctaws of

Georgia W. Morrison, et al.,
Laura K. McPhail,
Lillie Margaret Fountain,
Mary E. Dees, et al.,
Fannie E. Wiltshire,

and setting a hearing upon said petitions to be had at the office of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, on Friday July 6, 1906, at 9:00 a. m.

Respectfully,

Commissioner.

STV 1/20

Registered.

3547
7438
~~M C R 3347~~
7438

(38)

Muskogee, Indian Territory, July 12, 1906.

William W. Wright,
Corcoran Building,
Washington, D. C.

Dear Sir:

There is herewith enclosed copy of the testimony taken before this office July 6, 1906, in the matter of the alleged application for the identification of Georgia W. Morrison, et al., Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Deas, et al., and Fannie E. Wiltshire, as Mississippi Choctaws.

Respectfully,

Tamm Bixby

Commissioner.

McM 12/1

7438
M C R

Muskogee, Indian Territory, July 12, 1906.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

There is herewith enclosed copy of the testimony taken before this office July 6, 1906, in the matter of the alleged application for the identification of Georgia W. Morrison, et al., Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al., and Fannie E. Wiltshire, as Mississippi Choctaws.

Respectfully,

Commissioner.

McM 12/2

C O P Y

Washington, D. C. July 25th, 1906.

Honorable Commissioner to the
Five Civilized Tribes,
Muskogee, I. T.

Dear Sir:-

In re application of Susan S. Burton et al, Miss. Choc-
taw applicants.

I am advised that Messrs. Parker & Hefner, Beaumont, Texas,
by registered letter of July 20th, 1906, forwarded to you a certain
petition or motion in behalf of Sallie V. Marx and her minor chil-
dren.

Please note my appearance as counsel in connection with said
petition and advise me as to all future action.

Very respectfully,

(Signed) W. W. Wright

Waskagee, Indian Territory, July 26, 1906.

Parker & Hafner,
Attorneys at Law,
Beaumont, Texas.

Gentlemen:

Receipt is hereby acknowledged of your letter of the 20th instant, enclosing petition in behalf of Gallie V. Marx for the identification of herself and children as Mississippi Choctaws in the consolidated Mississippi Choctaw case of Susan S. Burton, et al.; also application for enrollment of Moses Marx, Miriam Marx, Phillip Aaron Marx, Susan Burton Marx and Ruby Marx as citizens of the Choctaw Nation under the Act of Congress approved April 26, 1906.

The above papers will receive consideration as early as practicable.

Respectfully,

Commissioner.

M O R 7443

Muskogee, Indian Territory, July 30, 1906.

W. W. Wright,
Attorney at Law, Corcoran Building,
Washington, D. C.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 25th instant, requesting that your name be entered as counsel in connection with the petition recently filed by Parker & Hefner, attorneys at law, Beaumont, Texas, in behalf of Sallie V. Marx and her children for identification as Mississippi Choctaws.

You are advised that a proper record has been made of your request.

Respectfully,

Commissioner.

M C R 7438.

49

Muskogee, Indian Territory, August 8, 1906.

George W. Morrison,
Durant, Indian Territory.

Dear Madam:

You are hereby notified that on August 6, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that you should be identified as a Mississippi Choctaw under the provisions of article 14 of the treaty of 1830, and refusing to receive or consider the application for the identification of your minor children, Emma Z., Anna May, Henry B., Frank W., Fannie H. Morrison, as Mississippi Choctaws under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641). The rights of said children under the Act of April 26, 1906, are not passed upon in said decision. The application for the enrollment of John F. Morrison as an intermarried Mississippi Choctaw is refused.

Respectfully,

GEO. D. ROGERS

Acting Commissioner.

Registered.

50

M C R 7438

Muskogee, Indian Territory, August 8, 1906.

Parker & Hefner,
Attorneys at Law,
Beaumont, Texas.

Gentlemen:

There is herewith enclosed copy of decision of the Commissioner to the Five Civilized Tribes rendered August 6, 1906, in the matter of the alleged application for the identification of George W. Morrison, et al., as Mississippi Choctaws.

Respectfully,

GEO. D. RODGERS

Acting Commissioner.

Registered

Mail 8/5

50

M C R 7438

Muskogee, Indian Territory, August 8, 1906.

H. A. Gibson,

Attorney at Law,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed copy of the decision of the Commissioner to the Five Civilized Tribes rendered August 6, 1906, in the matter of the alleged application for the identification as Mississippi Choctaws of George W. Morrison, et al.

Respectfully,

GEO. D. RODGERS

Acting Commissioner.

Registered

McK 8/2

52
M C R 7438

Muskogee, Indian Territory, August 8, 1906.

W. F. Wright,

Attorney at Law, Corcoran Building,
Washington, D. C.

Dear Sir:

There is herewith enclosed copy of the decision of the
Commissioner to the Five Civilized Tribes rendered August 6, 1906,
in the matter of the alleged application for the identification of
George W. Morrison, et al., as Mississippi Choctaws.

Respectfully,

GEO. D. RODGERS

Acting Commissioner.

Registered.

MoK 2/1

M. C. R. 7438

Muskogee, Indian Territory, August 5, 1906.

O. C. McCarty,

Durant, Indian Territory.

Dear Sir:

There is herewith enclosed copy of the decision of the Commissioner to the Five Civilized Tribes rendered August 5, 1906, in the matter of the alleged application for the identification of George W. Morrison, et al. as Mississippi Choctaws.

Respectfully,

GEO. H. ROBERTS

Acting Commissioner

Registered

McM 5/3

M C R 7438

Muskogee, Indian Territory, August 8, 1906.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

There is herewith enclosed copy of decision of the Commissioner to the Five Civilized Tribes rendered August 6, 1906, in the matter of the alleged application of George W. Morrison, et al., for identification as Mississippi Choctaws.

Respectfully,

GEO. S. RODGERS

Acting Commissioner

Registered

MAK 8/5

Muskogee, Indian Territory, August 10, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

The Department on March 20, 1906 (I T D 1596-1902, 4226-1905), in reference to the right of one George or Georgia W. Morrison to be identified as a Mississippi Choctaw, expressed the opinion that the record in the consolidated Mississippi Choctaw case of Susan S. Burton, et al. contained sufficient evidence to warrant the conclusion that prior to March 25, 1905, application was attempted to be made but refused on behalf of Georgia W. Morrison for identification as a Mississippi Choctaw.

The original record in the Susan S. Burton case was returned to this office together with the petition of Georgia W. Morrison et al., with the direction that the latter be permitted to submit proof of her right to be identified as a Mississippi Choctaw.

The Department also on May 15, 1906 (I T D 7840, 4907, 4226-1906), returned to this office to be considered with and disposed of in conformity with Departmental instructions of March 20, 1906, the petition of Mrs. Laura K. McPhail, et al., for identification as Mississippi Choctaws.

I now have the honor to transmit herewith the record made by this office in conformity with the Department's instructions of

56
(2)

March 20, 1906 and May 15, 1906, in the matter of the application for the identification of George, or Georgia, W. Morrison, et al. and Laura K. McPhail, et al. as Mississippi Choctaws.

Also the proceedings had before this office in reference to the right to identification as Mississippi Choctaws of Lillie Margaret Fountain, Mary E. Dees, et al., Fannie E. Wiltshire, and Sallie V. Marx, et al., together with my decision of August 6, 1906, identifying George W. Morrison, Laura K. McPhail, Mary E. Dees, Lillie Margaret Fountain, Fannie E. Wiltshire and Sallie V. Marx as Mississippi Choctaws under the provisions of the 14th article of the Choctaw Treaty of September 27, 1830, and disposing of the other applicants in conformity with my present understanding and views in reference to the legislation affecting the reception and consideration of applications for identification as Mississippi Choctaws.

The several applicants have been advised of the action taken by me in this matter, and their attorneys and the attorneys for the Choctaw and Chickasaw Nations have also been furnished with copies of my decision of August 6, 1906.

In view of the fact that the statute of limitation as to the time within which the persons identified as Mississippi Choctaws by said decision can remove to and establish their residence within the Choctaw-Chickasaw country has already begun to run, it

137)

(3)

is respectfully recommended that this matter receive the early consideration and action of the Department.

I also return herewith for the files of the Department the original record in the matter of the application of Susan S. Burton, et al. for identification as Mississippi Choctaw, H C R 3547.

Respectfully,



Commissioner.

Through the Commissioner
of Indian Affairs.

McM 10/1

(58)
/ (COPY)

✓
G. R.

DEPARTMENT OF THE INTERIOR,
WASHINGTON,

I.T.D. 1898-1902.
4826-1905.
10197-1906.

August 18, 1906.

L. R. S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

March 20, 1906, the Department returned to you the record in the case of Susan S. Burton, et al., together with the petition of Georgia W. Morrison, et al., for identification as Mississippi Cheaters and you were requested to adjudicate the right of applicants to be identified as such, after allowing applicants to submit proof of such right.

You are requested to take action in accordance with the above letter and make an early report and recommendation in the matter.

Respectfully,

(Signed) JESSE H. WILSON,
Assistant Secretary.

Through the Commissioner
of Indian Affairs.

M.C.R. 7438

Maskogee, Indian Territory, August 29, 1906.

The Honorable,
The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of August 18, 1906 (I.T.D. 1598-1902, 4226-1905, 10197-1906), inviting attention to Departmental letter of March 20, 1906, returning to the Commissioner the record in the case of Susan S. Burton, et al., together with the petition of Georgia W. Morrison, et al., for identification as Mississippi Choctaws, with the request that the right of the applicants be adjudicated after allowing them to submit proper proof.

The Department desires that action be taken in the matter in accordance with the instructions of March 20, 1906, and that an early report and recommendation be submitted.

I have the honor to report that the Department's instructions of March 20, 1906, have been adhered to; that on August 6, 1906, the Commissioner rendered a decision in the matter of the alleged application for the identification of Georgia (George) W. Morrison, et al., as Mississippi Choctaws, and that the original record in the Susan S. Burton case, together with the additional proceedings had in conformity with the Department's instructions of

60

(2)

March 20, 1906, were returned to the Department, through the Commissioner of Indian Affairs, with the Commissioner's letter of August 10, 1906.

Respectfully,

WM. O. BRALL

Acting Commissioner

Through the Commissioner
of Indian Affairs.



61

GR.

DEPARTMENT OF THE INTERIOR, LLB.

I.T.D. 1596-1902.

4226-1905.

18908-1906.

7240 "

JC.

WASHINGTON.

October 22, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 10, 1906, you transmitted the consolidated applications for identification as Mississippi Choctaws of George W. Morrison et al., Laura K. McPhail et al., Lillie Margaret Fountain, Mary E. Dees et al., Fannie E. Wiltshire, and Sallie D. Marx et al., wherein on August 6, 1906, you held that the records show that George W. Morrison, Laura K. McPhail, Lillie Margaret Fountain, Mary E. Dees, and Fannie E. Wiltshire are the daughters of Susan S. Burton, an identified and enrolled Mississippi Choctaw; that Sallie D. Marx is the grand daughter of the said Susan S. Burton; that application for the identification of the above-named applicants as Mississippi Choctaws was made prior to March 25, 1903, and within the time limited by the provisions of the act of Congress approved July 1, 1902 (32 Stat., 641), and that the above-named applicants are entitled to identification as Mississippi Choctaws under the provisions of article 14 of the treaty of September 27, 1830.

The records further show that the Commission to the Five Civilized Tribes was apprised prior to March 25, 1903, of the

fact that applicants George W. Morrison, Laura K. McPhail, and Mary E. Dees were the married daughters of Susan S. Burton, and as mothers of children were the heads of families of Choctaw-Indians, which served to advise the Commission of the existence of such a family of Indians, and under the decision of the Department of August 5, 1905 (I.T.D.8840), in the case of Isaac Leflore, it was the duty of the Commission to pursue that inquiry further to ascertain the names of said children in order to determine their rights. This information brought to the attention of the Commission within the time prescribed by section 41 of the act of July 1, 1902, "served to advise it of the existence" of each family, and "was in every respect, fully and completely the legal equivalent of an application made in due time" for the children of the married applicants identified as Mississippi Choctaws, whether said children be named in the application or not. The Commission was specially charged with the duty of instituting a full investigation as to the rights of all the members of said family of Choctaw Indians, and in this case the party applying for the absent Mississippi Choctaws was refused permission to disclose the names of her children and her children's children, for the reason that the Commission was then under the impression that each adult applying for identification as a Mississippi Choctaw would be required to make a personal applica-

tion for identification as such, but the regulation requiring personal application on the part of applicants was expressly waived as to Mississippi Choctaws who applied for identification by departmental letter of October 19, 1900 (I.T.D. 3432).

The Department is of opinion that the record satisfactorily shows that application for the enrollment of the children of the above-named identified Mississippi Choctaws was made within the time required by the act of July 1, 1902 (32 Stats. 641), and that the adult children of the above-named identified Mississippi Choctaws are entitled to be so identified, and you are directed to identify them as such.

Inasmuch as you have not passed upon the rights of the minor children of the above-identified Mississippi Choctaws, awaiting departmental action on the application of their mothers, and as their rights are held in abeyance to be determined under section 2 of the Act of April 26, 1906 (34 Stat., 137), as amended by the act of Congress approved June 21, 1906 (34 Stat., 325-384), you are directed to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Morrison, Laura K. McPhail, Mary E. Dees, and Sallie D. Marx, as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830.

Your decision refusing to identify John F. Morrison and Lucy C. Burton as intermarried Mississippi Choctaws is hereby affirmed, in accordance with departmental letter of July 30, 1903, in the case of Samuel B. Gee et al., wherein it was held that "as intermarried persons, wives or husbands of persons entitled to be identified, are not provided for in the strict terms of the agreement, their identification thereunder is not warranted".

The Commissioner of Indian Affairs reporting thereon September 26, 1906, recommended that both the children and grandchildren of Susan S. Burton be identified as Mississippi Choctaws. A copy of his letter is inclosed.

The consolidated records, including the record in the Susan S. Burton case, have this day been returned for the files of the Indian Office.

Respectfully,

(Signed) E. A. HITCHCOCK,
Secretary.

Through the Commissioner
of Indian Affairs.

15 inclosures.

M O R 7438

Muskegee, Indian Territory, September 17, 1906.

O. C. McCarty,

Durant, Indian Territory.

Dear Sir:

Replying to your letter of the 5th instant, you are advised that the matter of the alleged application for the identification of George W. Morrison, et al. is now pending before the Secretary of the Interior.

While you have not been admitted to practice as an attorney or agent before the Commissioner to the Five Civilized Tribes, this office will in this case advise you of such action as may be taken by the Department, inasmuch as you appeared at the hearing in this matter representing the claimant, George Morrison, as an agent.

Respectfully,

Commissioner.

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COPY

Land.
8766-1908.
79272-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

628

September 26, 1908.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the letter of August 10, 1908, of the Commissioner to the Five Civilized Tribes, with which he returns the record in the consolidated Mississippi Choctaw case of Susan S. Burton et al., with particular reference to the right of George, or Georgia, W. Harrison to be identified as a Mississippi Choctaw. This case was recommended by the Department to the Commissioner to the Five Civilized Tribes on March 20, 1906 (I.T.D. 1904-1906; 4226-1906). It was held by the Department at that time that prior to March 20, 1906, application was attempted to be made but was refused on behalf of Georgia W. Harrison for her identification as a Mississippi Choctaw, and that she should not be permitted to submit proof of her right to be so identified.

This was based on matters appearing in the record as follows:

Q. (Addressed to Susan S. Burton): The application you are making is simply for yourself?

A. Yes sir, I want to identify my children.

The Commissioner in his report recommends the identification of George W. Harrison, James E. McPherson, Wray E. Tamm, Lillian V. Swartz, Francis E. Williams and William J. Hall, they being the daughters of James E. Tamm. Each of these cases is the matter of a matter of children. The Commissioner states that no application was made within the time prescribed by law for the identification of the children.

I do not believe that the holding of the Department is susceptible of such a narrow construction and do believe that the Department intended that all beneficiaries of James E. Tamm, in behalf of whom the attempt is made in the original case should be held to have been applied for within the time prescribed by law. I cannot therefore recommend the approval of the decision of the Commissioner as to the children of these cases, the grand-children of James E. Tamm, but do recommend that his decision in favor of the daughters of James E. Tamm be approved.

A brief filed in this office on the 11th instant by W. E. Wright of this city, is also enclosed.

Very respectfully,

J. E. Harrison,

Acting Commissioner.

Madison, Indian Territory, November 2, 1906,

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental
Letter of October 23, 1906 (I T D 1898-1901, 4226-1903, 18903,
7228-1904), containing decision of August 6, 1906, identifying
George W. Morrison, Laura K. Mitchell, Lillie Margaret Fountain,
May E. Rice, Francis E. Whitaker and Willie D. Rice as Mississippi
Cherokee, and directing that I proceed with the identification of
both the child and other children of George W. Morrison, Laura K.
Mitchell, May E. Rice and Willie D. Rice.

The Department in its Letter of October 23, 1906, makes
reference to the report of the Commissioner of Indian Affairs of
September 29, 1906, recommending that both the children and grand-
children of James G. Hester be identified as Mississippi Cherokee,
and stating that a copy of said report is enclosed.

The report of the Commissioner of Indian Affairs of Sep-
tember 29, 1906, was not enclosed with Departmental Letter of October
23, 1906, and I have the honor to request that a copy thereof be
furnished for the records of this office.

Respectfully,

George W. Morrison
of Indian Affairs

Commissioner

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(COPY)

WAW

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Land.
96900-1900.

WASHINGTON. November 14, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Office has received your letter of the 2nd instant, addressed to the Secretary of the Interior concerning the application for the identification of George W. Morrison, et al., as Mississippi Choctaws, and the action of the Department of October 22, 1906, in directing that you proceed with the identification of both the adult and minor children of George W. Morrison, Laura K. McPhail, Mary E. Dees and Sallie D. Marx.

You say that no copy of Office letter of September 26, 1906, addressed to the Department in this case was furnished you, and you ask for a copy thereof. After forwarding your letter to the Department the Office has had a copy made of the letter mentioned, and it is enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

ENC-L.

Form No. 260.

64

THE WESTERN UNION TELEGRAPH COMPANY.

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23,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

ROBERT C. CLOWRY, President and General Manager.

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SEND the following message subject to the terms Muskogee, I.T., November 26, 1906.
on back hereof, which are hereby agreed to.

Parker and Hefner,

Beaumont, Texas.

Replying your telegram this date, am forwarding you by mail copy of Departmental letter authorizing identification of number of applicants in Georgia Morrison case. These people can not select allotments until schedule containing their names has been approved by Department, of which you will be notified.

BIXBY
Commissioner.

(5)

READ THE NOTICE AND AGREEMENT ON BACK.

HCR 733

Madras, India Territory, November 30, 1936.

Patent & McFar,
Attorneys at Law,

Dallas, Texas.

Gentlemen:

Referring to my telegram to you of the 25th instant,
there is herewith enclosed copy of Departmental letter of October
22, 1936, relative to the consolidated Madras case of
George W. Harrison, et al.

Respectfully,

TANS BIXIN

Enclosure.

HCR 733

COPY

Muskogee, Indian Territory, ^{December 1,} ~~November 2,~~ 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Permit me to invite your attention to Departmental letter of October 22, 1906 (I T D 1596-1902, 4226-1905, 18908, 7240-1906), in reference to the consolidated applications for the identification as Mississippi Choctaws of George W. Morrison, et al., Laura K. McPhail, et al., Lillie Margaret Fountain, Mary E. Dees, et al., Fannie E. Wiltshire and Sallie V. Marx, et al.

In this matter I rendered a decision on August 6, 1906, wherein the opinion was expressed that application was made for the identification of George W. Morrison, Laura K. McPhail, Lillie Margaret Fountain, Mary E. Dees and Fannie E. Wiltshire, the daughters of Susan S. Burton, and Sallie V. Marx the granddaughter of Susan S. Burton, prior to March 25, 1903, and within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and that they were entitled to identification as Mississippi Choctaws by reason of being the descendants of a beneficiary under the 14th article of the Choctaw treaty of September 27, 1830.

(2)

The opinion was further expressed that the evidence failed to establish that any application was made for the identification of Emma E. Morrison, Anna May Morrison, Henry V. Morrison, Frank W. Morrison, Fannie H. Morrison, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail, Homer McPhail, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar H. Dees, Fannie E. Dees, Katiebelle Dees, Willie W. Dees, Tommie W. Dees, Herbert Dees, Sammie D. Wood, Moses Marx, Miriam Marx, Phillip Aaron Marx, Susan Burton Marx and Ruby Marx as Mississippi Choctaws, within the time limited by the provisions of the Act of Congress approved July 1, 1903 (32 Stats., 641).

The Department in its letter of October 22, 1906, states that the Commission to the Five Civilized Tribes was apprised prior to March 25, 1903, of the fact that the applicants George V. Morrison, Laura K. McPhail, and Mary E. Dees were the married daughters of Susan E. Burton, and as mothers of children were the heads of families of Choctaw Indians, which served to advise the Commission of the existence of such a family of Indians, and under the decision of the Department of August 5, 1906 (I T D 6840), in the case of Isaac Leflore, it was the duty of the Commission to pursue that inquiry further to ascertain the names of said children in order to determine their rights.

(3)

The Department also expressed the opinion -

" . . . that the record satisfactorily shows that application for the enrollment of the children of the above-named identified Mississippi Choctaws was made within the time required by the act of July 1, 1902 (32 Stat., 641), and that the adult children of the above-named identified Mississippi Choctaws are entitled to be so identified . . . ,"

and their identification as such is directed.

The Department also directs the Commissioner to identify both the adult and minor children named in the decision of August 6, 1906, as the children of George W. Morrison, Laura K. McPhail, Mary E. Dees and Sallie D. Marx, as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830:

The decision of August 6, 1906, refusing to identify John F. Morrison and Lucy C. Burton as intermarried Mississippi Choctaws is affirmed in accordance with Departmental ruling of July 30, 1903, in the case of Samuel B. Gee, et al.

I desire before proceeding in conformity with the Department's instructions of October 22, 1905, to invite attention to the fact that the finding that application was made for the identification of the children and grandchildren of Susan S. Burton as Mississippi Choctaws is undoubtedly based upon the testimony of Susan S. Burton of September 13, 1901, and of Susan Cornelia Marshall of December 19, 1901.

(4)

I fail to understand how the doctrine as enunciated by the Department could extend to any person born subsequent to December 19, 1901, the date upon which Susan Cornelia Marshall testified in reference to her sisters.

Permit me also to suggest in this connection that I fail to find any authority of law for the identification of any person as a Mississippi Choctaw born subsequent to September 25, 1902.

In Departmental letter of May 25, 1906 (I T D 8066-1906, 17858-1906, 9022-1906), in reference to the right to enrollment of Willis Willis as a citizen of the Choctaw Nation, it was held that persons duly identified as Mississippi Choctaws who had removed to and established their residence within the Choctaw-Chickasaw country within the time prescribed by law and submitted proof of such removal and settlement and whose enrollment as Mississippi Choctaws has been approved by the Secretary of the Interior, occupied a status analogous to citizens by blood of the Choctaw Nation and that their children were entitled to the benefits of the legislation of March 3, 1906 (33 Stats., 1071) and April 26, 1906 (34 Stats., 137).

It appears to me that the only benefits that can accrue to the children born to George W. Morrison, Laura K. McPhail, Mary E. Dees and Sallie V. Marx subsequent to September 25, 1902, is by being the children of duly enrolled Mississippi Choctaws.

I would therefore respectfully suggest that Departmental decision of October 23, 1906, be amended by providing for the identification of George W. Morrison, Laura K. McPhail, Lillie Margaret Fountain, Mary E. Dees and Fannie E. Wiltshire, the daughters of Susan S. Burton, and Sallie V. Marx the granddaughter of Susan S. Burton, and their children who were living on December 19, 1901, as follows: Emma Z. Morrison, Anna May Morrison, Henry B. Morrison, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail, Homer McPhail, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katicelle Dees, Moses Marx, Miriam Marx, and Philip Aaron Marx.

Apparently there is nothing in the record in this matter which would warrant the assumption that any application was made for the identification of the children born subsequent to December 19, 1901, as Mississippi Choctaws, within the time prescribed by the Act of Congress approved July 1, 1902 (32 Stats., 641). Whatever rights, if any, the persons born since that date might have, would be as the minor children of duly enrolled Mississippi Choctaws, under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137).

As a condition precedent to the enrollment of said children it is seemingly necessary that their parents remove to and

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(6)

establish a bona fide residence within the Choctaw-Chickasaw country and that they be duly enrolled as Mississippi Choctaws.

I therefore respectfully recommend as to such children, being Frank W. Morrison, Fannie H. Morrison, Willie W. Dees, Tommie W. Dees, Herbert Dees, Sannie D. Wood, Susan Burton Marx and Ruby Marx, that Departmental decision of October 22, 1906, directing their identification as Mississippi Choctaws under the provisions of article 14 of the treaty of September 27, 1830, be rescinded.

I am also preparing a schedule containing the names of the children and grandchildren of Susan S. Burton living on December 19, 1901, whose identification was directed by Departmental letter of October 22, 1906, which will this date be transmitted for Departmental approval. When this schedule has been approved the persons therein named will have an opportunity to submit proof of their removal to and settlement within the Choctaw-Chickasaw country for the purpose of securing their enrollment as Mississippi Choctaws.

The question of the enrollment of the minor children born subsequent to December 19, 1901, under the provisions of the Act of April 26, 1906 (34 Stats., 137), can then receive consideration and their applications be disposed of as applications for the enrollment of minor children of duly enrolled Mississippi Choctaws.

Respectfully,

Through the Commissioner
of Indian Affairs.

SIGNED *Tams Blxby.*
Commissioner.

78.

M C R 7438

Muskogee, Indian Territory, December 3, 1906.

Chief Clerk,
Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

Following is a list of the applicants in the consolidated Mississippi Choctaw case of George W. Morrison, et al. which is now pending, and you are instructed to permit these applicants to designate their prospective allotments, whether the same contains their improvements or is public domain:

George W. Morrison,
Anna May Morrison,
Frank W. Morrison,
John F. Morrison,
Frank McPhail,
Fannie McPhail,
Gates McPhail,
Virgil McPhail,
Mary E. Dees,
Wood, Mary E.
Walter T. Dees,
Oscar E. Dees,
Katiebelle Dees,
Tomnie W. Dees,
Wood, Sannie D.,
Fannie E. Wiltshire,
Sallie V. Marx,
Miriam Marx,
Susan Burton Marx,

Emma Z. Morrison,
Henry B. Morrison,
Fannie H. Morrison,
Laura K. McPhail,
Myra McPhail,
Grade McPhail,
Preston McPhail,
Homer McPhail,
Henry H. Dees,
Dees, George A.
Edgar R. Dees,
Fannie E. Dees,
Willie W. Dees,
Herburt Dees,
Lillie M. Fountain,
Lucy J. Burton,
Moses Marx,
Phillip Aaron Marx,
Ruby Marx.

John F. Morrison and Lucy J. Burton are intermarried

Choctaw Land Office 2

Mississippi Choctaw applicants, whose claims have been denied by the Commissioner and by the Department. Therefore they are not entitled to select prospective allotments.

Respectfully,

Acting Commissioner.

77
MCR 7438

Muskogee, Indian Territory, December 3, 1906.

C. C. McCarty,

Durant, Indian Territory.

Dear Sir:--

Replying to your letter of November 30, 1906, you are advised that under date of December 1, 1906, the Commissioner to the Five Civilized Tribes transmitted to the Department a schedule of identified Mississippi Choctaws containing the names of the children and grandchildren of Susan S. Burton, living on December 19, 1901, whose identification was directed by Departmental letter of October 22, 1906. The rights of the minor children, born since December 19, 1901, will be determined at a later date under the act of Congress approved April 26, 1906, (34 Stats., 137).

You are further advised that the Choctaw and Chickasaw land offices have this day been directed to permit any or all of the applicants in the consolidated Mississippi Choctaw case of George W. Morrison, et al, with the exception of John F. Morrison and Lucy G. Burton, intermarried claimants, to designate their prospective allotments.

Respectfully,

WM. O. BEALL

Acting Commissioner.

77

MM

REFER IN REPLY TO THE FOLLOWING

MCR 7438

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 3, 1906.

George. W. Morrison,
Durant, Indian Territory.

Dear Madam :--

You are hereby notified that you may in person or by petition, designate to the Choctaw Land office at Atoka, Indian Territory, or the Chickasaw land office at Ardmore, Indian Territory, the lands which you desire to select as the prospective allotments of yourself and children, pending approval by the Secretary of the Interior of your identification as Mississippi Choctaws.

Respectfully,

W. O. Beall

Acting Commissioner.

M C R 7438

Muskogee, Indian Territory, December 5, 1906.

John F. Morrison,

Durant, Indian Territory.

Dear Sir:

You are hereby notified that the Secretary of the Interior, on October 22, 1906, affirmed the decision of the Commissioner to the Five Civilized Tribes of August 6, 1906, refusing to identify you as a Mississippi Choctaw by intermarriage.

Respectfully,

Acting Commissioner.

M C R 7438

Muskogee, Indian Territory, December 5, 1906.

Chief Clerk,

Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

On the 3rd instant you were instructed to permit the applicants in the consolidated Mississippi Choctaw case of George W. Morrison, et al. to designate their prospective allotments.

There is now inclosed for the information of your office, in connection with this matter, copy of a letter of the Commissioner dated December 1, 1906, transmitting to the Department for its approval, a schedule of identified Mississippi Choctaws containing the names of certain persons in the above mentioned case; also copy of a letter of the Commissioner to the Secretary of the Interior, under date of December 1st, discussing the status of the applicants in the consolidated Mississippi Choctaw case of George W. Morrison, et al., and setting forth the reason for not scheduling all of the applicants at this time.

Respectfully,

McM 5/1

Acting Commissioner.

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M O R 7438

COPY.

Muskogee, Indian Territory, August 8, 1906.

H. A. Gibson,
Attorney at Law,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed copy of the decision of the
Commissioner to the Five Civilized Tribes rendered August 6, 1906,
in the matter of the alleged application for the identification as
Mississippi Choctaws of George W. Morrison, et al.

Respectfully,

SIGNED



Acting Commissioner.

Registered.

MM 8/2

78
MOR 7438

Muskogee, Indian Territory, December 12, 1906.

Parker & Hefner,

Attorneys at Law,

Beaumont, Texas.

Gentlemen :--

Receipt is hereby acknowledged of your letter of November 28, 1906, addressed to the Commissioner to the Five Civilized Tribes, in which you complain that the Chief Clerk of the Chickasaw land office has refused to allow certain of your clients, applicants in the consolidated Mississippi Choctaw case of George W. Morrison, et al, to select or have reserved their prospective allotments, inasmuch as the schedule containing their names as identified Mississippi Choctaws has not yet been approved by the Secretary of the Interior and he requests to be advised as to when you may expect the Department to have the opportunity of approving this schedule.

Replying to your communication, you are advised that on August 6, 1906, the Commissioner to the Five Civilized Tribes rendered a decision in the above consolidated case, holding that application had been made for the identification of George W. Morrison, Laura E. McNeill, Lillie Margaret Fountain, Mary E. Dace and Fannie E. Wilshire, the daughters of Susan E. Burton and Lillie E. Marx, the grand daughter of Susan E. Burton, prior to March 20, 1904, and within the time limited by the pro-

visions of the Act of Congress approved July 1, 1902, (32 Stat. 641), and that they were entitled to identification as Mississippi Choctaws by reason of being the descendants of a beneficiary under the 14th article of the Choctaw treaty of September 27, 1830.

In this decision, the opinion was further expressed that the evidence failed to show that any application was made for the identification of Emma Z. Morrison, Anna May Morrison, Henry V. Morrison, Frank W. Morrison, Fannie H. Morrison, Frank McPhail, Myra McPhail, Fannie McPhail, Grace McPhail, Gates McPhail, Preston McPhail, Virgil McPhail, Homer McPhail, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katharine Dees, Willie W. Dees, Fannie W. Dees, Herbert Dees, Bessie D. Wood, Moses Marx, Miriam Marx, Phillip Aaron Marx, Susan Barton Marx and Ruby Marx, as Mississippi Choctaws, within the time limited by the provisions of the act of Congress approved July 1, 1902, (32 Stat. 641).

October 22, 1906, the Department directed the Commissioner to identify both the adult and minor children named in the decision of August 6, 1906, as the children of George W. Morrison, Laura E. McPhail, Mary E. Dees and Sallie B. Marx, as Mississippi Choctaws, entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830. The Department also stated that the record satisfactorily shows that application for the enrollment of the children of the last

Parker & Hefner, 3.

above named persons was made within the time required by the Act of Congress approved July 1, 1902 (32 Stats., 641), and that the adult children of said persons were entitled to be so identified.

The Commissioner's decision of August 6, 1906, refusing to identify John F. Morrison and Lucy C. Burton as intermarried Mississippi Choctaws, has been affirmed by the department in accordance with Departmental ruling of July 30, 1903, in the case of Samuel B. Qoo, et al.

It would seem that the finding in Departmental letter of October 22, 1906, that application was made for the identification of the children and grand children of Susan S. Burton as Mississippi Choctaws is undoubtedly based upon the testimony of Susan S. Burton of September 13, 1901, and of Susan Cornelia Marshall of December 19, 1901.

In Departmental letter of May 25, 1905, in reference to the right to enrollment of Willis Willis as a citizen of the Choctaw nation, it was held that persons only identified as Mississippi Choctaws who had removed to and established their residence within the Choctaw-Chickasaw country within the time prescribed by law and submitted proof of such removal and settlement, and whose enrollment as Mississippi Choctaws has been approved by the Secretary of the Interior, occupy the status analogous to citizens by blood of the Choctaw nation, and that their children were entitled to the benefits of the legislation of March 3, 1905, and April 25, 1906.

Parker & Hefner, 4.

It would appear that the only benefits that can accrue to the children born to George W. Morrison, Laura K. McPhail, Mary E. Dees and Sallie V. Marx, subsequent to December 19, 1901, the date upon which Susan Cornelia Marshall testified in reference to her sisters, is by being the children of duly enrolled Mississippi Choctaws.

Apparently there is nothing in the record in this consolidated case which would warrant the assumption that any application was made for the identification of the children born subsequent to December 19, 1901, as Mississippi Choctaws within the time prescribed by the Act of Congress approved July 1, 1902 (32 Stats., 641). Whatever rights, if any, the persons born since that date might have, would be as the minor children of duly enrolled Mississippi Choctaws under the provisions of the Act of Congress approved April 26, 1906, (34 Stats., 157).

As a condition precedent to the enrollment of said children, it is seemingly necessary that their parents remove to and establish a bona fide residence within the Choctaw- Chickasaw country and that they be duly enrolled as Mississippi Choctaws. Under date of December 1, 1906, the Commissioner to the Five Civilized Tribes transmitted to the Department a schedule of identified Mississippi Choctaws Nos. 2484 to 2511, inclusive, which contain the following names:

Parker & Hefner, 5.

George W. Morrison
Emma Z. Morrison
Anna May Morrison
Henry B. Morrison
Laura K. McPhail
Frank McPhail
Myra McPhail
Pannia McPhail
Grace McPhail
Gates McPhail
Preston McPhail
Virgil McPhail
Homer McPhail
Mary E. Dees

Henry H. Dees
Mary E. Wood
George A. Dees
Walter F. Dees
Edgar E. Dees
Oscar E. Dees
Fannie E. Dees
Katiebelle Dees
Lillie M. Fountain
Fannie E. Wiltshire
Sallie V. Marx
Moses Marx
Miriam Marx
Philip Aaron Marx

The above appear to be the children and grand children of Susan S. Burton, living on December 19, 1901, whose identification was directed by Departmental letter of October 22, 1906. When this schedule has been approved, the persons named therein will have an opportunity to submit proof of their removal to and settlement within the Choctaw-Chickasaw country for the purpose of securing their enrollment as Mississippi Choctaws.

The question of the enrollment of the minor children, born subsequent to December 19, 1901, can be then considered under the Act of Congress approved April 26, 1906, (34 Stats., 137). You are further advised that the Chief Clerk of the Choctaw land office at Atoka, Indian Territory, and the Chief Clerk of the Chickasaw land office, Ardmore, Indian Territory, have this day been notified to permit any or all of the applicants in the consolidated Mississippi Choctaw case of George W. Morrison, et al., with the exception of John F. Morrison and Lucy C. Burton, inter-married claimants, to designate in person or by petition the lands

Parker & Hefner, S.

which they desire to select as their prospective allotments.

Respectfully,

YAKS BUDY

Commissioner.

COPY

Muskegee, Indian Territory, December 15, 1906.

The Honorable,
The Secretary of the Interior.

Sir:

December 4, 1906 (I T D 14761-1906), the Department advised this office that it was in receipt of a letter from the attorney for the applicants in the Mississippi Choctaw case of Georgia Morrison, et al., in which he requests that the Commissioner be directed to permit the persons in said case who have been identified as Mississippi Choctaws to make tentative allotments. The Department directs that action be taken in this matter in accordance with Departmental instructions of November 22, 1906, relative to the petition of Manervia F. Swadley, et al.

I now have the honor to report that on December 3, 1906, the principal applicants in the consolidated case of George V. Morrison, et al., who have been identified as Mississippi Choctaws, were notified that they might, in person or by petition, designate to either the Choctaw or Chickasaw land office, the lands which they desire to select as the prospective allotments of themselves and children.

Respectfully,

SIGNED: *Tams Blaby*
Commissioner.

Through the Commissioner
of Indian Affairs.

JP
LLB

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D. 14761-1906.

December 4, 1906.

LRS

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir :--

The Department is in receipt of a letter from the attorney for the applicants in the Mississippi Choctaw case of Georgia Morrison, et al., the subject of Departmental letter of October 22, 1906, in which he requests that you be directed to permit the persons to said case who have been identified as Mississippi Choctaws to make tentative allotments, which it seems you have refused to permit.

It is requested that you take action in this matter in accordance with the instructions contained in Departmental letter of November 22, 1906, relative to the petition of Manervia F. Swadley, et al.

Respectfully,

(Signed) Thos. Ryan,

First Assistant Secretary.

M C R 7438

Muskegee, Indian Territory, December 5, 1906.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

On the 3rd instant you were instructed to permit the applicants in the consolidated Mississippi Choctaw case of George W. Morrison, et al. to designate their prospective allotments.

There is now enclosed, for the information of your office in connection with this matter, copy of a letter of the Commissioner dated December 1, 1906, transmitting to the Department for its approval, a schedule of identified Mississippi Choctaws containing the names of certain persons in the above mentioned case; also copy of a letter of the Commissioner to the Secretary of the Interior, under date of December 1st, discussing the status of the applicants in the consolidated Mississippi Choctaw case of George W. Morrison, et al., and setting forth the reason for not scheduling all of the applicants at this time.

Respectfully,

McM 5/2

Acting Commissioner.

M.C.R. 7438.

Muskogee, Indian Territory, January 7, 1907.

George W. Morrison,
Durant, Indian Territory.

Dear Madam:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing your name and the names of your three minor children Emma Z., Anna May and Henry B. Morrison, and that said names appear upon the schedule referred to as follows:

No. 2484 George W. Morrison,
No. 2485 Emma Z. Morrison,
No. 2486 Anna May Morrison,
No. 2487 Henry B. Morrison.

The Act of Congress approved July 1, 1902 (32 Stats., 641), provides -

"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

G. M. 2

Under the above provision of law it is necessary for you and your three minor children heretofore named to remove to and establish a bona fide residence within the Choctaw-Chickasaw country, Indian Territory, prior to June 26, 1907.

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for you and your children to secure the benefits accruing to your identification as Mississippi Choctaws and your enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes, and your enrollment as Mississippi Choctaws approved by the Secretary of the Interior prior to March 4, 1907. The short time within which this procedure can be accomplished makes it obligatory upon you to establish your residence within the Choctaw-Chickasaw country and submit proof thereof to the Commissioner to the Five Civilized Tribes with the least possible delay.

It is earnestly suggested that the compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted

G. M. S

either to the Choctaw land office at Atoka, Indian Territory, or
the Chickasaw land office at Ardmore, Indian Territory, not later
than January ^{20,} 1907.

This latter date is suggested for the reason that the
ministerial duty of securing the approval of your enrollment as
Mississippi Choctaws by the Secretary of the Interior prior to
March 4, 1907, will not permit of delaying this matter later than
that date.

Respectfully,

Commissioner.

M.C.R. 7438

Muskogee, Indian Territory, January 9, 1907.

N. A. Gibson,

Attorney at Law,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing the names of the following persons:

- | | | | |
|------|--------------------|------|---------------------|
| 2484 | George W. Morrison | 2485 | Rama Z. Morrison |
| 2486 | Anna May Morrison | 2487 | Henry B. Morrison |
| 2488 | Laura K. McPhail | 2489 | Frank McPhail |
| 2490 | Myra McPhail | 2491 | Fannie McPhail |
| 2492 | Grace McPhail | 2493 | Gates McPhail |
| 2494 | Preston McPhail | 2495 | Virgil McPhail |
| 2496 | Homer McPhail | 2497 | Mary E. Dees |
| 2498 | Henry H. Dees | 2499 | Mary E. Wood |
| 2500 | George A. Dees | 2501 | Walter T. Dees |
| 2502 | Fannie E. Dees | 2503 | Oscar E. Dees |
| 2504 | Fannie E. Dees | 2505 | Katiebella Dees |
| 2506 | Lillie M. Fountain | 2507 | Fannie B. Wiltshire |
| 2508 | Ballie V. Marx | 2509 | Moses Marx |
| 2510 | Miriam Marx | 2511 | Philip Aaron Marx. |

This schedule was received at the office of the Commissioner to the Five Civilized Tribes January 2, 1907.

Respectfully,

TAMS BIXBY

Commissioner.

Muskogee, Indian Territory, January 9, 1907.

Parker & Hefner,

Attorneys at Law,

Beaumont, Texas.

Gentlemen:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing the names of the following persons:

2484 George W. Morrison
2485 Emma E. Morrison
2486 Anna May Morrison
2487 Henry B. Morrison
2488 Laura K. McPhail
2489 Frank McPhail
2490 Myra McPhail
2491 Fannie McPhail
2492 Grace McPhail
2493 Gates McPhail
2494 Preston McPhail
2495 Virgil McPhail
2496 Homer McPhail
2497 Mary E. Dees
2498 Henry H. Dees
2499 Mary A. Wood
2500 George A. Dees
2501 Walter T. Dees
2502 Edgar R. Dees
2503 Oscar E. Dees
2504 Fannie E. Dees
2505 Katisbelle Dees
2506 Lillie M. Fountain
2507 Fannie E. Wiltshire
2508 Sallie V. Marx
2509 Hester Marx
2510 Miriam Marx
2511 Phillip Agnes Marx

The Act of Congress approved July 1, 1902 (32 Stats., 641), provides -

"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

Under the provision of law above quoted, it is necessary for the persons named in the schedule to remove to, and establish a bona fide residence within, the Choctaw-Chickasaw country, Indian Territory, prior to June 26, 1907.

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for the persons hereinbefore named to secure the benefits accruing to their identification as Mississippi Choctaws and enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, Indian Territory, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes, and their enrollment as Mississippi Choctaws approved by the Secretary of the Interior prior to March 4, 1907. The limited time within which this procedure can be accomplished makes it obligatory upon said persons to establish their residence in the Choctaw-Chickasaw country and submit proof thereof to the Commissioner to the Five Civilized Tribes with the least possible delay.

It is earnestly suggested that compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted to either the Choctaw Land Office at Atoka, Indian Territory, or the Chickasaw Land Office at Ardmore, Indian Territory, not later than January 20, 1907.

This latter date is suggested for the reason that the ministerial duty of securing the approval of the enrollment of these persons as Mississippi Choctaws by the Secretary of the Interior prior to March 4, 1907, will not permit of delaying this matter later than that date.

The schedule containing the names of the persons hereinbefore enumerated, was received at this office January 2, 1907, being

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transmitted with Departmental letter of December 26, 1906.

Respectfully,

CARE HEDY

Commissioner.

FRE

M.C.R.-7438

Muskogee, Indian Territory, January 9, 1904.

William W. Wright,
Washington Loan & Trust Building,
Washington, D. C.

Dear Sir:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing the names of the following persons:

- 2484 George W. Morrison
- 2485 Emma Z. Morrison
- 2486 Anna May Morrison
- 2487 Henry B. Morrison
- 2488 Laura K. McPhail
- 2489 Frank McPhail
- 2490 Myra McPhail
- 2491 Fannie McPhail
- 2492 Grace McPhail
- 2493 Gates McPhail
- 2494 Preston McPhail
- 2495 Virgil McPhail
- 2496 Homer McPhail
- 2497 Mary D. Dees
- 2498 Henry H. Dees
- 2499 Mary E. Wood
- 2500 George A. Dees
- 2501 Walter T. Dees
- 2502 Edgar R. Dees
- 2503 Oscar E. Dees
- 2504 Fannie E. Dees
- 2505 Katiabelle Dees
- 2506 Lillie M. Fountain
- 2507 Fannie E. Wiltshire
- 2508 Eddie V. Marx
- 2509 Moses Marx
- 2510 Miriam Marx
- 2511 Philip Aaron Marx

The Act of Congress approved July 3, 1902 (32 Stats., 541), provides -

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"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

Under the provision of law above quoted, it is necessary for the persons named in the schedule to remove to, and establish a bona fide residence within the Choctaw-Chickasaw country, Indian Territory, prior to June 26, 1907.

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for the persons hereinbefore named to secure the benefits accruing to their identification as Mississippi Choctaws and enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, Indian Territory, proof of such settlement submitted to the Commissioner

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M.C.R. -7438

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to the Five Civilized Tribes, and their enrollment as Mississippi Choctaws approved by the Secretary of the Interior prior to March 4, 1907. The limited time within which this procedure can be accomplished makes it obligatory upon said persons to establish their residence in the Choctaw-Chickasaw country and submit proof thereof to the Commissioner to the Five Civilized Tribes with the least possible delay.

It is earnestly requested that compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted to either the Choctaw Land Office at Atoka, Indian Territory, or the Chickasaw Land Office, at Ardmore, Indian Territory, not later than January 20, 1907.

This latter date is suggested for the reason that the ministerial duty of securing the approval of the enrollment of these persons as Mississippi Choctaws by the Secretary of the Interior prior to March 4, 1907, will not permit of delaying this matter later than that date.

The schedule containing the names of the persons hereinbefore enumerated, was received at this office January 2, 1907, being transmitted with Departmental letter of December 26, 1906.

Respectfully,

TAMS BIXBY

Commissioner.

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M.C.R.-7438

Muskogee, Indian Territory, January 9, 1907.

C. C. McCarty,

Attorney at Law,

Durant, Indian Territory.

Dear Sir:-

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing the names of the following named persons:

2484	George W. Morrison	2485	Anna Z. Morrison
2486	Anna May Morrison	2487	Henry B. Morrison
2488	Laura K. McPhail	2489	Frank McPhail
2490	Myra McPhail	2491	Fannie McPhail
2492	Grace McPhail	2493	Gates McPhail
2494	Preston McPhail	2495	Virgil McPhail
2496	Homer McPhail	2497	Mary E. Dees
2498	Henry H. Dees	2499	Mary E. Wood
2500	George A. Dees	2501	Walter T. Dees
2502	Edgar R. Dees	2503	Oscar E. Dees
2504	Fannie E. Dees	2506	Katiebelle Dees
2506	Lillie M. Fountain	2507	Fannie E. Wiltshire
2508	Sallie Y. Marx	2509	Moses Marx
2510	Miriam Marx	2511	Philip Aaron Marx

This schedule was received at the office of the

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Commissioner to the Five Civilized Tribes January 2, 1907.

Respectfully,

TAMM BIXBY

Commissioner.

7438

Muskogee, Indian Territory, January 19, 1907.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 12th instant, requesting to be advised the date of identification of the applicants whose names appear upon Identified Mississippi Choctaw cards, numbers 900 to 905 inclusive.

In reply you are informed that No. 1 on each of said cards was identified August 6, 1906. The other persons whose names appear upon the cards were identified December 1, 1906.

Respectfully,

Commissioner.

SPECIAL.

Muskogee, Indian Territory, January 24, 1907.

Direct.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental letter of January 19, 1906 (I T D 645-1907), referring to me for immediate report, a communication from William W. Wright, attorney at law, Washington, D. C., dated January 14, 1907, complaining of the omission by this office to identify Tommie W. Dees and Herbert Dees, two minor children of Henry H. Dees, Willie W. Dees, youngest child of Mary E. Dees, Sammie D. Wood, son of Mary E. Wood, Susan Burton Marx and Rubie Marx, minor children of Sallie B. Marx, all of whom were living on March 4, 1906, and for whom applications were made under the Act of Congress approved April 26, 1906, and who were included in the application in the consolidated Mississippi Choctaw case of George W. Morrison, et al.

Mr. Wright also encloses a copy of my letter of January 9, 1907, advising him of the approval by the Secretary of the Interior on December 26, 1906, of a schedule of duly identified Mississippi Choctaws containing the names of a number of the applicants in the George W. Morrison case.

The Department makes reference to its instructions of October 22, 1906, relative to the George W. Morrison case as follows:

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"Inasmuch as you have not passed upon the rights of the minor children of the above-identified Mississippi Choctaws awaiting departmental action on the application of their mothers, and as their rights are held in abeyance to be determined under section 2 of the Act of April 26, 1906 (34 Stat., 137), as amended by the act of Congress approved June 21, 1906 (34 Stat., 325-384), you are directed to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Morrison, Laura K. McPhail, Mary E. Dees, and Sallie D. Marx, as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830."

I am requested to state whether any determination has been had of the rights of the minor applicants claimed to have been omitted from the schedule of identified Mississippi Choctaws approved by the Department December 26, 1906; whether I have identified said omitted minor applicants as Mississippi Choctaws, and if not, the reason therefor.

Reporting upon this matter permit me to call the Department's attention to my letter of December 1, 1906, transmitting a schedule of duly identified Mississippi Choctaws, numbered 2484 to 2611 inclusive, and to my separate letter of the same date referring to Departmental letter of October 22, 1906 (I T D 1596-1902, 4226-1905, 18908, 7240-1906), and in which I recommended that Departmental decision of October 22, 1906, be rescinded in so far as it directed the identification as Mississippi Choctaws of Frank W. Morrison, Fannie H. Morrison, Willie W. Dees, Tommie W. Dees, Herbert Dees, Sammie D. Wood, Susan Burton Marx and Ruby Marx.

I also suggested in my letter of December 1, 1906, that the question of enrollment of the minor children above referred to, born subsequent to December 19, 1901, under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 237), would receive consideration and their applications be disposed of as applications for the enrollment of minor children of duly enrolled Mississippi Choctaws in the event that their parents removed to and established a residence within the Choctaw-Chickasaw country, and were duly enrolled as Mississippi Choctaws in conformity with the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641).

I return Mr. Wright's letter of January 14, 1907, with the enclosure therewith transmitted.

Respectfully,

TAMS BIXBY

Commissioner.

McM 24/1

DEPARTMENT OF THE INTERIOR, LLB
 WASHINGTON.

I.T.D. 7240-1906.
 14761- "
 18908- "
 1764-1907.
 1808- "

February 21, 1907.

Direct.

Commissioner to the Five Civilized Tribes,
 Muskogee, Indian Territory.

Sir:

December 1, 1906, you reported and recommended that departmental decision of October 22, 1906 (I.T.D.7240), directing you "to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Morrison, Laura K. McPhail, Mary E. Dees, and Sallie D. Marx as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830," be amended by omitting the names of Frank W. Morrison, Fannie E. Morrison, Willie W. Dees, Tammie V. Dees, Herbert Dees, Sammie D. Wood, Susan Burton Marx, and Baby Marx, directed to be identified in accordance therewith.

January 24, 1907, you reported specially as to the omission of the above minor children from the schedule of duly identified Mississippi Choctaws containing the names of a number of the applicants in the George W. Morrison case.

In view of the approved opinion of the Assistant Attorney-General for this Department dated February 16, 1907 (I.T.D.3064),

in the Mississippi Choctaw case of Nicholas Charles (or Charles) et al., for identification as Mississippi Choctaws, copy of which opinion has this day been forwarded to you in said case, which provides, "A third child, James, was born to these parents subsequent to the original application made by the father of the family. He is entitled to identification, however, under section 2 of the act of April 26, 1906 (34 Stat., 137), which provides in part as follows:

That for ninety days after approval hereof applications shall be received for enrollment of children who were minors living March fourth, nineteen hundred and six, whose parents have been enrolled as members of the Choctaw, Chickasaw, Cherokee, or Creek tribes, or have applications for enrollment pending at the approval hereof,

and this is true whether his claim depends upon the application of his father or his mother," (in which case James Charles was born subsequent to the original application, made May 11, 1901, of his father), the Department declines to rescind its action of October 22, 1906, directing you, in accordance with opinion of that date, to identify both the adult and minor children named in your decision of August 6, 1906, as Mississippi Choctaws, including the minor children above named, to wit, Frank W. Morrison, Fannie H. Morrison, Willie W. Dees, Tammie W. Dees, Herbert Dees, Sammie D. West, Susan Burton Marx, and Baby Marx.

The Department adheres to its decision of October 22, 1906, in the Mississippi Choctaw case of George W. Morrison et al., and you are directed to proceed to enroll the applicants named

therein in accordance therewith.

You are requested to advise applicants and their resident attorneys of this action. The Indian Office will advise local counsel.

The papers in the case and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

THOS. NEAN

First Assistant Secretary.

21 ins. to Ind. Of.

A. V. M.
1-21-27.

Schedules containing names of forgoing persons have been heretofore forwarded Dept.

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Muskogee, Indian Territory, February 27, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a schedule of identified Mississippi Choctaws, containing the names of Frank L. Morrison, Fannie H. Morrison, Willie W. Dees, Tommie W. Dees, Herbert Dees, Sammie D. Wood, Susan Burton Marx and Ruby Marx, whose numbers, by a previous arrangement, will be entered at your office. Combined with this schedule is a part of the final roll of said Mississippi Choctaws, whose numbers are likewise to be entered at your office, submitted for your approval in the event their identification is approved by the Department.

The persons aforesaid are the children of George W. Morrison, Mary E. Dees, Henry H. Dees, Mary E. Wood, and Sallie V. Marx, duly enrolled Mississippi Choctaws, and some difficulty has been experienced in procuring, at this date, proof of their removal to and settlement within the Choctaw-Chickasaw country. However, by reference to the proof heretofore submitted by said parents and in which said children are named, same has been held by this office to be sufficient for said minors, for the reason that it would be impossible to

secure other and admit of your approval by March 4, 1907.

In connection with said schedule of identified Mississippi Choctaws and their final enrollment, you are advised that on February 7, 1907, this office forwarded for your approval a schedule of minor Mississippi Choctaws, containing the names of said minors, for enrollment under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137), same being conditioned upon the approval of said parents, namely: George W. Morrison, Mary E. Dees, Henry H. Dees, Mary E. Wood and Sallis V. Marx.

The course of this office at the aforesaid time was deemed proper for the reason that said minors were born subsequent to the date of the original applications, to-wit: September 13, 1901 and December 19, 1901, and also for the reason that, with the exception of possibly two, said minors were born subsequent to September 25, 1902, and, therefore, are not entitled to enrollment under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641).

By your letter of February 21, 1907 (I T D 7240, 14761, 18908-1908, 1764, 1808-1907), you refused to rescind your action of October 22, 1906 (I T D 7240-1906), directing this office to identify said minors, and, in compliance therewith, this office transmits the aforesaid schedule, although the right to enrollment has accrued to said minors under the Act of Congress approved April 26, 1906, for the reason that the enrollment of

their parents as aforesaid was approved by the Secretary of the Interior February 15, 1907.

Permit me again to recommend that the former action of this office enrolling said minors under the Act of April 26, 1906, and the schedule transmitted by this office on February 7, 1907, be approved, and that the schedule herewith transmitted, as a compliance with your direction of February 21, 1907, be disapproved.

Respectfully,

TAMM BERRY

Commissioner.

Enclosures.

MM
This is to certify that I am the officer having custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes of Indians, and the disposition of the land of said tribes, and that the foregoing pages numbered 1 to 102 inclusive, are true and correct copies of copies of certain papers in the possession of the Commissioner to the Five Civilized Tribes relative to the enrollment of Tommie W. and Herbert Dees, enrolled Minor Mississippi Choctaws.

Dated
June 18, 1909.



Commissioner.

COPY

Muskogee, Indian Territory, February 27, 1907.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to transmit herewith a schedule constituting a part of the final roll of Mississippi Choctaws, containing the name of Walter T. Dees, whose roll number, by a previous arrangement, will be entered at your office.

Walter T. Dees was identified by the Commissioner to the Five Civilized Tribes, as a minor ~~Choctaw~~ Mississippi Choctaw, December 1, 1906, under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641). His name is found upon a schedule of duly identified Mississippi Choctaws opposite Number 2561, approved by the Secretary of the Interior December 26, 1906.

This applicant is a minor Mississippi Choctaw, having been born October 24, 1886, and is the son of Mary H. Dees whose enrollment as a Mississippi Choctaw was approved by the Secretary of the Interior February 16, 1907.

It further appears that the said Walter T. Dees is now, and has been since September, 1906, confined in a penitentiary or jail at Parchman, Mississippi, and therefore unable to physically remove to and establish a residence in the Choctaw-Chickasaw country.

On February 16, 1907, the said Mary R. Dees appeared at the Chickasaw Land Office of the Commissioner at Ardmore, Indian Territory, and, claiming a domicile in the Choctaw-Chickasaw country for the said Walter T. Dees by reason of her removal to and settlement within the same, resubmitted proof of such removal and settlement upon the theory that it was a compliance of the said Walter T. Dees with that portion of the statute requiring a "bona fide residence" within the Choctaw-Chickasaw country, and for that reason that he was entitled to enrollment.

The Commissioner, after carefully considering this case, is of the opinion that as the said Walter T. Dees is a minor and is still under the dominion of his parents the removal of this family to the Choctaw-Chickasaw country and their settlement therein should be considered a "bona fide settlement" in the Choctaw-Chickasaw country of the said Walter T. Dees within the intent and purpose of the Act of Congress approved July 1, 1902, providing for the enrollment of Mississippi Choctaws, especially in consideration of the fact that the said applicant is, at the present time, restrained of his liberty and it is impossible for him physically to remove to and settle within the Indian Territory prior to March 4, 1907.

I am constrained to this opinion by reason of the fact that the Department has heretofore, on all occasions, been disposed to grant considerable latitude to Mississippi Choctaw claimants who have been identified as such in their removal to

+

the Choctaw or Chickasaw Nation and their proof of such removal and settlement within the time prescribed by law, not permitting a technicality of the law to deprive these applicants of a right which it was evidently intended by Congress that they should enjoy.

I, therefore, consider the proof of removal to and settlement within the Choctaw-Chickasaw country of the said Walter T. Deas to be sufficient to entitle him to enrollment, and it is so ordered.

Respectfully,

SIGNED *Wm Bixby.*

Commissioner.

Enclosures.

COPY

Waukegee, Indian Territory, February 27, 1907.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to transmit herewith a schedule constituting a part of the final roll of Mississippi Choctaws, containing the name of Walter T. Dees, whose roll number, by a previous arrangement, will be entered at your office.

Walter T. Dees was identified by the Commissioner to the Five Civilized Tribes, as a mixed blood Mississippi Choctaw, December 1, 1906, under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641). His name is found upon a schedule of duly identified Mississippi Choctaws opposite Number 2501, approved by the Secretary of the Interior December 24, 1906.

This applicant is a minor Mississippi Choctaw, having been born October 24, 1884, and is the son of Mary E. Dees whose enrollment as a Mississippi Choctaw was approved by the Secretary of the Interior February 16, 1907.

It further appears that the said Walter T. Dees is now, and has been since September, 1906, confined in a penitentiary or jail at Furchman, Mississippi, and therefore unable to physically remove to and establish a residence in the Choctaw-Chickasaw country.

On February 16, 1907, the said Mary E. Dees appeared at the Chickasaw Land Office of the Commissioner at Ardmore, Indian Territory, and, claiming a domicile in the Choctaw-Chickasaw country for the said Walter T. Dees by reason of her removal to and settlement within the same, resubmitted proof of such removal and settlement upon the theory that it was a compliance of the said Walter T. Dees with that portion of the statute requiring a "bona fide residence" within the Choctaw-Chickasaw country, and for that reason that he was entitled to enrollment.

The Commissioner, after carefully considering this case, is of the opinion that as the said Walter T. Dees is a minor and is still under the dominion of his parents the removal of this family to the Choctaw-Chickasaw country and their settlement therein should be considered a "bona fide settlement" in the Choctaw-Chickasaw country of the said Walter T. Dees within the intent and purpose of the Act of Congress approved July 1, 1902, providing for the enrollment of Mississippi Choctaws, especially in consideration of the fact that the said applicant is, at the present time, restrained of his liberty and it is impossible for him physically to remove to and settle within the Indian Territory prior to March 4, 1907.

I am constrained to this opinion by reason of the fact that the Department has heretofore, on all occasions, been disposed to grant considerable latitude to Mississippi Choctaw claimants who have been identified as such in their removal to

the Choctaw or Chickasaw Nation and their proof of such removal and settlement within the time prescribed by law, not permitting a technicality of the law to deprive those applicants of a right which it was evidently intended by Congress that they should enjoy.

I, therefore, consider the proof of removal to and settlement within the Choctaw-Chickasaw country of the said Walter T. Doss to be sufficient to entitle him to enrollment, and it is so ordered.

Respectfully,

SIGNED *Wm Bixby.*

Commissioner.

Witnesses,

No.

SUBPEONA--CIVIL

Plaintiff.

vs.

Defendant.

Filed in District Court of Bryan County, this
..... day of..... 190.....

District Clerk.

By..... Deputy.

SHERIFF'S FEES.

Serving subpoena first person	\$
.....additional persons	\$
.....cop.....of subpoena	\$
Not Found	\$
.....miles	\$
Total	\$

State of Oklahoma, Bryan County, ss

I, *A. S. Hammett* do hereby certify that the within is a true copy of the original subpoena issued from said Court.

Witness my hand this *11*.....day of

June.....190*9*

A. S. Hammett
Sheriff.

By *P. B. Norman* Under Sheriff

In the District Court of Bryan County, State of Oklahoma.

THE STATE OF OKLAHOMA:

To *D. H. Bynum* chief clerk of *District Commission Muskogee, Okla* and bring with you all papers relative to the application for and enrollment of *Tommie W. Dees & Herbert Dees* application number *in your office* *7-362*

You are commanded to appear before the District Court of Bryan County, at Durant, on the *23rd*

day of *June* 190*9* at *9* o'clock *A*.M. as a witness in behalf of

Defendants in an action pending in said Court in which

R. A. Hegner et al is plaintiff

and *Tommie W. Dees et al* is defendant.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this *11th* day of

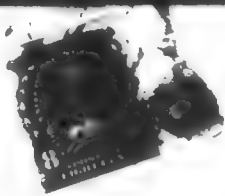
June 190*9*.

W. R. Collins
Clerk District Court.

By *W. A. Jones* Deputy.

Department of the Interior.

Commissioner to the Five Civilized Tribes,
MUSKOCOE, IND. TER.



*21
June 11 '06*

52901



*A
21*

Mrs. George W. Morrison,

Durant, Indian Territory.

7438



DEPARTMENT OF THE COMMISSIONER OF THE REGISTRY

FILED

JAN - 7 1907

A handwritten signature in dark ink, appearing to be "W. H. ...", written over a series of horizontal lines.

Commissioner.

George W. Morrison
Facket # 1 et al.

Identifying # 1.

AU

DEC 10 1906

AU

AU

RECORD FOR

Oct. 1-06

Nos. 1-2-3-4 scheduled by Departmental
directions of Oct. 22-06.

No. 7 denied by Com'r Aug. 6-06
" " " " Sept. Oct. 22-06

Choctaw MCR 7439

Laura K. McPhail

MCR 7439

7439

(1)

Muskogee, Indian Territory, January 22, 1906.

R. A. Hefner,
Attorney at Law,
Beaumont, Texas.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 15th instant, requesting to be advised as to making application for the "McPhail family." Inasmuch as you refer to their relationship to Mrs. Susan B. Burton, who is a Mississippi Choctaw, it is presumed that you desire to make application for these persons for identification as Mississippi Choctaws.

In reply your attention is invited to the following provision of the Act of Congress approved July 1, 1902, which was ratified by the citizens of the Choctaw and Chickasaw Nations September 25, 1902:

"The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement."

Under the above legislation this office is now without authority to receive or consider the original application of any person for identification as a Mississippi Choctaw.

Respectfully,

Tenn. D. Kelly
Commissioner.

DEPARTMENT OF THE INTERIOR (COPY)
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. March 12, 1906.

Land.
15624-1904.
16046-1906.

The Honorable,
The Secretary of the Interior.

Sir:

The Office is in receipt of Departmental letter of February 23 (I.T.D.1921-1906), enclosing a communication to the Assistant Attorney General for the Interior Department, dated February 12, 1906, from C. C. McCarty, submitting certain papers in behalf of George W. Morrison and family, claimants as Mississippi Choctaws.

The Department requests the Office, in connection therewith, to examine the record in the case of Susan S. Burton, et al., the subject of Departmental letters of November 24, 1903, and March 4, 1904, particularly as to whether any application was made for the identification of George (Georgia) W. Burton, the wife of George W. Morrison, as alleged in two affidavits submitted.

An examination of the records in the Mississippi Choctaw case of Susan S. Burton, et al., has been made in reference to the inquiry of the Department. The affidavit of Georgia W. Morrison, the daughter of Susan S. Burton, contains

the statement, "She (Susan S. Burton) gave the names of her children at the time she made application for enrollment, except those whose names were already enrolled, including applicant."

There is nothing in the record in the Susan S. Burton case to support this contention except that on page 2 of the record, which contains a part of the examination of Susan S. Burton, the following appears:

Q. The application you are making is simply for yourself?

A. Yes, I want to identify my children.

The name of this daughter was not given by Mrs. Burton in connection with her examination. The affidavits and papers submitted by Mr. McCarty and the original record in the Susan S. Burton case are enclosed.

Very respectfully,

G. F. Larrabee,

Acting Commissioner.

HH-Y.

M C R 3547

COPY.

Muskogee, Indian Territory, April 9, 1906.

W. W. Wright,
Attorney at Law, Corcoran Bldg.,
Washington, D. C.

Dear Sir:

Referring to your letter of February 26, 1906, you are advised that this office has submitted a report in full upon the petition submitted by you in reference to the right to identification of Mrs. Ella McPhail and her children as Mississippi Choctaws.

In your letter you desire to be informed whether or not there appears anything of record showing that Ella McPhail formally or informally ever applied or took any steps to secure her enrollment as a citizen by blood of the Choctaw Nation or her identification as a Mississippi Choctaw.

Your attention is invited to the fact that while the petition submitted by you is on behalf of Mrs. Ella McPhail, the affidavit accompanying the same is signed Laura K. McPhail.

In the record in the consolidated Mississippi Choctaw case of Susan H. Burton on page 65 and in the testimony of Susan Cornelia Marshall taken before the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, on December 19, 1901, is

V W Wright 2

found the followings:

- "Q Can you give the names of your brothers and sisters?
A John Ezra Burton, Fannie B. Burton, Laura K. Burton,
Mary E. Burton; do you want their maiden names?
Q Just continue as you are? A Henry D. Burton, Hardy C.
Burton, Cornelia S. Burton, Lillie K. Burton and George W.
Burton.
Q John Ezra Burton that you mentioned, is he the one admitted
to citizenship in the Choctaw Nation by the Choctaw Council?
A He was.
Q Is he living? A No sir.
Q Who did Fannie B. Burton marry? A Steven Wiltshire.
Q Has she applied to this Commission for identification?
A No sir.
Q Where does she reside? A In Copiah County, Mississippi.
Q Where does Laura K. Burton live? A In Texas.
Q Who did she marry? A F. E. McPhail.
Q Has she ever been before the Commission? A No sir.

In reference to the case of Mrs. McPhail, your attention
is invited to Departmental letter of March 20, 1906, transmitting
to this office a similar petition submitted on behalf of George W.
Morrison.

You will be informed of any action taken by the Department
upon the petition submitted by you on behalf of Mrs. Ella McPhail
and her children.

Respectfully,

SIGNED *Wm. O. Beall.*

Acting Commissioner.

(COPY)

G. E.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

D. O. 19224-1906.
I. T. D. 7240-1906.
4907-1906.
4226-1906.

May 15, 1906.

L. R. S.

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

In accordance with your recommendation of April 7, 1906, the original petition of Mrs. Laura K. McPhail, with request for leave to amend said petition by correcting the name of petitioner, erroneously stated therein as Mrs. Ella McPhail, to Mrs. Laura K. McPhail, is returned to you, through the Indian Office, to be considered with and disposed of in conformity with departmental instructions of March 20, 1906 (I. T. D. 1596-1902, 4226-1905), in remanding the record in the matter of an alleged application for the enrollment of Georgia W. Morrison, with whom petitioner, Mrs. Laura K. McPhail, is said to be identical.

Thereis also inclosed for your consideration, the recommendation of S. E. Cooper, Esq., of Beaumont, Texas, relative to petitioner, Mrs. Laura K. McPhail.

Respectfully,

(Signed) Jesse E. Wilcox

Through the Commissioner
of Indian Affairs.
S. inclosure.

Assistant Secretary

M C R 3547

COPY.

Muskogee, Indian Territory, June 6, 1906.

Manfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Friday, July 6th, 1906, at nine o'clock A. M., hear the testimony of such witnesses as may be presented in support of the alleged rights of Mrs. Laura McPhail and her children to be identified as Mississippi Choctaws.

Copy of Departmental letter of May 15, 1906, in regard to this matter is herewith enclosed, and your attention is invited to copy of Departmental letter of March 20, 1906, relative to Mrs. George W. Morrison, et al., a sister of Mrs. McPhail, and which letter is forwarded to you this date in a separate communication.

Respectfully,

SIGNED *Tame Bixby.*

Commissioner.

Registered.

McM 4/1

M C R 3547

COPY.

Muskogee, Indian Territory, June 6, 1906.

W. W. Wright,

Attorney at Law, Corcoran Bldg.,

Washington, D. C.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Friday, July 6th, 1906, at nine o'clock A. M., hear the testimony of such witnesses as may be presented in support of the alleged rights of Mrs. Laura K. McPhail and her children to be identified as Mississippi Choctaws.

Respectfully,

SIGNED *Tams Bixby.*

Commissioner.

Registered.

X C R 3547

COPY.

Muskogee, Indian Territory, June 6, 1906.

Mrs. Laura K. McPhail,
Beaumont, Texas.

Dear Madam:

You are hereby notified that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on July 6th, 1906, at nine o'clock A. M., hear the testimony of such witnesses as may be presented in support of the alleged rights of yourself and children to be identified as Mississippi Choctaws.

Respectfully,

SIGNED *Tama Bixby.*

Commissioner.

Registered.

MCR 3547

COPY.

Muskogee, Indian Territory, July 2, 1906.

Manfield, McMurray & Cornish,
Attorneys for the Choctaw & Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Referring to letter to you from this office under date of June 6, 1906, advising that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory on Friday July 6, 1906 at 9:00 o'clock a. m., hear the testimony of such witnesses as might be presented in support of the alleged rights of Mrs. Laura K. McPhail and her children to be identified as Mississippi Choctaws, you are advised that on the same date testimony will also be heard relative to the rights of Lillie Margaret Fountain, Mary E. Dees and Fannie Wiltshire to such identification, these parties being full sisters of Laura K. McPhail and the children of Susan S. Burton.

Petitions similar to that filed in the case of Laura K. McPhail have recently been transmitted to this office in behalf of the above named persons by their attorney William W. Wright, Washington, D. C.

Respectfully,

SIGNED *Jame Dixby.*

Commissioner.

To be filed in jacket

(39)

M C R 7439

Muskogee, Indian Territory, July 30, 1906.

Parker & Hefner,
Attorneys at Law,
Beaumont, Texas.

Gentlemen:

Receipt is hereby acknowledged of your letter of the 23rd instant, enclosing petition for enrollment of Grace, Gates, Preston, Virgil, and Homer McPhail, children of F. M. and Laura K. McPhail, as citizens of the Choctaw Nation under the Act of Congress approved April 26, 1906.

This application will be made a part of the record in the matter of the application for the identification of Laura K. McPhail as a Mississippi Choctaw.

Respectfully,

Tamm Dwyer

Commissioner.

To be filed in jacket

X O R 7439

(40)

Muskogee, Indian Territory, July 30, 1906.

Oswald S. Parker,
Attorney at Law,
Beaumont, Texas.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 24th instant, requesting to be advised as to what disposition has been made of the application for the identification of Laura K. McPhail, et al. as Mississippi Choctaws; said application being connected with that of Susan S. Burton, et al.

In reply you are informed that no disposition has been made of this application up to the present time. When a decision is rendered therein you will be duly notified.

Respectfully,

Tamm Batby

Commissioner.

M C R 7439

COPY.

Muskogee, Indian Territory, August 8, 1906.

Laura K. McPhail,
Beaumont, Texas.

Dear Madam:

You are hereby notified that on August 6, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that you should be identified as a Mississippi Choctaw under the provisions of article 14 of the treaty of 1830, and refusing to receive or consider the application for the identification of your children, Frank, Myra, Fannie, Grace, Gates, Preston, Virgil and Homer McPhail, as Mississippi Choctaws under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641). The rights of the minor children under the Act of Congress approved April 26, 1906, are not passed upon in said decision.

Respectfully,

SIGNED



Acting Commissioner.

Registered.

OR.

DEPARTMENT OF THE INTERIOR, LLB.

I.T.D. 1896-1902.

WASHINGTON.

October 22, 1906.

4226-1903.

18908-1906.

7240 "

JC.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 10, 1906, you transmitted the consolidated applications for identification as Mississippi Choctaws of George W. Morrison et al., Laura K. McPhail et al., Lillie Margaret Fountain, Mary E. Dees et al., Fannie E. Wiltshire, and Sallie D. Marx et al., wherein on August 6, 1906, you held that the records show that George W. Morrison, Laura K. McPhail, Lillie Margaret Fountain, Mary E. Dees, and Fannie E. Wiltshire are the daughters of Susan E. Burton, an identified and enrolled Mississippi Choctaw; that Sallie D. Marx is the grand daughter of the said Susan E. Burton; that application for the identification of the above-named applicants as Mississippi Choctaws was made prior to March 25, 1902, and within the time limited by the provisions of the act of Congress approved July 1, 1902 (32 Stat., 641), and that the above-named applicants are entitled to identification as Mississippi Choctaws under the provisions of article 14 of the treaty of September 27, 1830.

The records further show that the Commission to the Five Civilized Tribes was apprised prior to March 25, 1902, of the

fact that applicants George W. Morrison, Laura K. McPhail, and Mary E. Dees were the married daughters of Susan S. Burten, and as mothers of children were the heads of families of Choctaw Indians, which served to advise the Commission of the existence of such a family of Indians, and under the decision of the Department of August 5, 1905 (I.T.D.8840), in the case of Isaac Leflore, it was the duty of the Commission to pursue that inquiry further to ascertain the names of said children in order to determine their rights. This information brought to the attention of the Commission within the time prescribed by section 41 of the act of July 1, 1902, "served to advise it of the existence" of each family, and "was in every respect, fully and completely the legal equivalent of an application made in due time" for the children of the married applicants identified as Mississippi Choctaws, whether said children be named in the application or not. The Commission was specially charged with the duty of instituting a full investigation as to the rights of all the members of said family of Choctaw Indians, and in this case the party applying for the absent Mississippi Choctaw was refused permission to disclose the names of her children and her children's children, for the reason that the Commission was then under the impression that each adult applying for identification as a Mississippi Choctaw would be required to make a personal applica-

tion for identification as such, but the regulation requiring personal application on the part of applicants was expressly waived as to Mississippi Choctaws who applied for identification by departmental letter of October 19, 1900 (I.T.D. 3432).

The Department is of opinion that the record satisfactorily shows that application for the enrollment of the children of the above-named identified Mississippi Choctaws was made within the time required by the act of July 1, 1902 (32 Stats. 641), and that the adult children of the above-named identified Mississippi Choctaws are entitled to be so identified, and you are directed to identify them as such.

Inasmuch as you have not passed upon the rights of the minor children of the above-identified Mississippi Choctaws, awaiting departmental action on the application of their mothers, and as their rights are held in abeyance to be determined under section 2 of the Act of April 26, 1906 (34 Stat., 137), as amended by the act of Congress approved June 21, 1906 (34 Stat., 325-324), you are directed to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Morrison, Laura K. McPhail, Mary E. Dees, and Sallie D. Marx, as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830.

Your decision refusing to identify John F. Morrison and Lucy C. Burton as intermarried Mississippi Choctaws is hereby affirmed, in accordance with departmental letter of July 30, 1903, in the case of Samuel B. Gee et al., wherein it was held that "as intermarried persons, wives or husbands of persons entitled to be identified, are not provided for in the strict terms of the agreement, their identification thereunder is not warranted".

The Commissioner of Indian Affairs reporting thereon September 26, 1906, recommended that both the children and grandchildren of Susan S. Burton be identified as Mississippi Choctaws. A copy of his letter is inclosed.

The consolidated records, including the record in the Susan S. Burton case, have this day been returned for the files of the Indian Office.

Respectfully,

(Signed) E. A. HITCHCOCK,
Secretary.

Through the Commissioner
of Indian Affairs.

15 inclosures.

MOR 7439

Muskogee, Indian Territory, December 3, 1906.

Laura K. McPhail,

Ardmore, Indian Territory.

Dear Madam :--

Replying to your letter of the 15th ultimo, you are advised that you may designate in person or by petition to the Choctaw Land office at Atoka, Indian Territory, or Chickasaw land office at Ardmore, Indian Territory, the lands which you desire to select as the prospective allotments of yourself and children, pending approval by the Secretary of the Interior of your identification as Mississippi Choctaws.

Respectfully,

Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

JP
LLB

I.T.D. 14761-1906.

December 4, 1906.

LRS

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir :--

The Department is in receipt of a letter from the attorney for the applicants in the Mississippi Choctaw case of Georgia Morrison, et al., the subject of Departmental letter of October 22, 1906, in which he requests that you be directed to permit the persons to said case who have been identified as Mississippi Choctaws to make tentative allotments, which it seems you have refused to permit.

It is requested that you take action in this matter in accordance with the instructions contained in Departmental letter of November 22, 1906, relative to the petition of Manervia F. Swadley, et al.

Respectfully,

(Signed) Thos. Ryan,

First Assistant Secretary.

(COPY)

SAV

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Land.
96980-1906.

WASHINGTON. November 14, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Office has received your letter of the 2nd instant, addressed to the Secretary of the Interior concerning the application for the identification of George W. Morrison, et al., as Mississippi Choctaws, and the action of the Department of October 22, 1906, in directing that you proceed with the identification of both the adult and minor children of George W. Morrison, Laura K. McPhail, Mary E. Dees and Sallie D. Marx.

You say that no copy of Office letter of September 26, 1906, addressed to the Department in this case was furnished you, and you ask for a copy thereof. After forwarding your letter to the Department the Office has had a copy made of the letter mentioned, and it is enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

HM-Y.

M.C.R. 7439.

Muskogee, Indian Territory, January 8, 1907.

Laura E. McPhail,

Ardmore, Indian Territory.

Dear Madam:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing your name and the names of your eight children, Frank, Myra, Fannie, Grace, Gates, Preston, Virgil, and Homer McPhail, that said names appear upon the schedule referred to as follows:

2488	Laura A. McPhail
2490	Frank McPhail
2490	Myra McPhail
2491	Fannina McPhail
2492	Grace McPhail
2493	Gates McPhail
2494	Preston McPhail
2495	Virgil McPhail
2496	Homer McPhail

The Act of Congress approved July 1, 1902 (32 Stats., 641), provides -

"All persons duly identified by the Commission to the Five Civilized Tribes under the provision of section 21 of the Act of Congress approved June 23, 1902 (30 Stats. 495), as Mississippi Choctaws entitled to benefits under article fourteen of the treaty between the United States and the Choctaw Nation concluded September twenty-seven, eighteen hundred and thirty, may, at any time within six months after the date of their identification as Mississippi Cho-

taws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provision herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

Under the above provision of law it is necessary for you and your eight children heretofore named to remove to and establish a bona fide residence within the Choctaw-Chickasaw country, Indian Territory, prior to June 26, 1907.

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for you and your children to secure the benefits accruing to your identification as Mississippi Choctaws and your enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes, and your enrollment as Mississippi Choctaws approved by the Secretary of the Interior prior to March 4, 1907. The short time within which this procedure can be accomplished makes it ob-

ligatory upon you to establish your residence within the Choctaw-Chickasaw country, and submit proof thereof to the Commissioner to the Five Civilized Tribes with the least possible delay.

It is earnestly suggested that the compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted either to the Choctaw Land Office at Atoka, Indian Territory, or the Chickasaw Land Office at Ardmore, Indian Territory, not later than January ²⁰~~27~~, 1907.

This latter date is suggested for the reason that the ministerial duty of securing the approval of your enrollment as Mississippi Choctaws by the Secretary of the Interior prior to March 4, 1907, will not permit of delaying this matter later than that date.

Respectfully,

Commissioner.

Muskogee, Indian Territory, January 19, 1907.

Chief Clerk,

Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

Referring to Identified Mississippi Choctaw cards, numbers 900 to 905 inclusive, copies of which were recently furnished your office, you are advised that No. 1 on each of said cards was identified as a Mississippi Choctaw August 6, 1906. The other persons whose names appear upon said cards were identified December 1, 1906.

Respectfully,

Commissioner.

Complete Enrollment Record.

Orison McPhail, - 2

Roll No, 1396

Iden - 901 - }

M.C.N. 7439 }

2.00

Test 9/6/06 -

" 1/12/07

14.50

7.00

Letters - 78 -

31.20

Decy 8/6/06

4.00

Statement no date

1.00

" Facts 2/29/06
" 1/21/07

2.25

Teleg 11/28/06

50

Petition 2/15/06

1.00

" 2/21/06

3.00

appn for En. 7/23/06

1.50

appn 4/12/06 - 8/3/06 - 48/06

1.50

Roll

25

60.00

Complete Enrollment Record
Dustin McPhail - G

Roll No. 1396
Iden. 901 -
MCK 7439 }

2.50

Test 9/6/06
" 1/12/07

14.50
1.00

Letters - 78

~~34.50~~

Dec 8/6/06

4.50

~~Statement no date~~

~~1.00~~

" Facts 6/29/06
" 1/21/07

2.25

Teleg 11/28/06

50

Petition 6/15/06

1.00

" 2/21/06

3.00

Appn for En 7/23/06

1.00

off 4/12/06 - 8/31/06 - 46/06

1.00

Roll

25

Choctaw MCR 7440

Mary E. Dees

MCR 7440.

In re Application of
Susan S. Burton et al
Miss Choctaw Applicant

Affidavit of
Mrs. Mary E. Kies.

FILED

JUN 6 1906

Commissioner

CONRAD S. PARKER

DEALERS, TEXAS

IN RE APPLICATION SUSAN S. BURTON, ET AL, MISS. CHOCTAW APPLICANTS:

STATE OF MISSISSIPPI)

COUNTY OF Putnam)

Before me, the undersigned authority, on this day personally appeared Mrs. Mary E. Dees, of McComb City, Mississippi, personally known to me, who being duly sworn, deposes and says:

FIRST: That her maiden name was Mary E. Burton, that she is 47 years of age, and that she is the Mary E. Burton mentioned by Susan Cornelia Marshall on page 65 of the record in the Susan S. Burton case, and that the said Susan S. Burton is her mother, and at the time said testimony was given, she was then married to W. H. Dees, having been married to him on the 7 day of August in the year 1877, and that the said W. H. Dees is her legal husband, and that their following named children are the legal offspring of such marriage, to-wit: Henry H. Dees, Mary E. Wood, Geo. A. Dees, Walter T. Dees, Bigar R. Dees, Oscar E. Dees, Fannie E. Dees, Katiabelle Dees, and Willie W. Dees.

SECOND: That Henry H. Dees is twenty-seven years of age, Mary E. Wood is twenty-five years of age, Geo. A. Dees is twenty-two years of age, Walter T. Dees is eighteen years of age, Bigar R. Dees is fifteen years of age, Oscar E. Dees is twelve years of age, Fannie E. Dees is nine years of age, Katiabelle Dees is six years of age, and Willie W. Dees is four years of age.

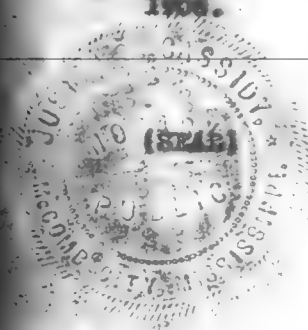
THIRD: That their said son, Henry H. Dees, was, on the 12 day of November, married to Katiabelle Dees, and that the said Henry H. Dees, and wife have two children, to-wit: Fannie W. Dees, whose age is 4 years, and Herbert Dees, whose age is 3 years, and that said Fannie W. Dees and Herbert Dees are the grandchildren of applicant.

FOURTH: That their above named daughter, Mary E. Wood, on the 10 day of January 1899, married W. L. Wood, and that the said Mary E. Wood and her husband have one child, to-wit: Susie E. Wood, whose age is 3 years, and that the said Susie E. Wood is the grandchild of applicant.

FIFTH: That her above named husband, W. H. Dees, and all of her above named children, together with her above named grand-children are now living.

Mary E. Dees.
AFFIANT:

Subscribed and sworn to by the said Mary E. Dees before the undersigned authority on this the 30 day of June, A. D. 1906.



Justin J. Cassidy
NOTARY PUBLIC FOR THE STATE OF
Quitman COUNTY, MISSISSIPPI.

IN RE APPLICATION SUSAN S. BURTON, ET AL, MISS. CHOCTAW APPLICANTS:

STATE OF KENTUCKY)
COUNTY OF Fulton)

Before me, the undersigned authority, on this day personally appeared Henry H. Dees of Fulton, Kentucky, personally well known to me, who being duly sworn deposes and says:

FIRST: That he is the son of Mrs. Mary E. Dees and W. H. Dees of McComb City, Mississippi and the grandson of Mrs. Susan S. Burton now of Durant, Indian Territory.

SECOND: that Mary E. Wood, Geo. A. Dees, Walter T. Dees, Oscar E. Dees, Fannie E. Dees, Katiebelle Dees and Willie W. Dees, all of McComb City, Mississippi are brothers and sisters, as the case may be, of affiant, and that they are all children of Mrs. Mary E. Dees and W. H. Dees. That on the 12th day of December, 1900 he married Myrtle Phelps, who is now affiant's legal wife, and that they have two children, which are the legal offspring of such marriage, to-wit: Tommie W. Dees, whose age is 4 years and Herbut Dees, whose age is 2 years.

THIRD: That Affiant's two children, together with his above named brothers and sisters are all now living.

THIRD: That John Ezra Burton, Fannie E. Burton, Laura K. Burton, Henry D. Burton, Hardy C. Burton, Cornelia S. Burton, Lillie M. Burton and Geo. A. Burton, named on page 65 of the record in the above case in the testimony of Susan Cornelia Marshall are the Uncles and Aunts, as the case may be, of affiant, and that the Mary E. Burton mentioned in said testimony is the mother of affiant.

FOURTH: That he is the affiant in the foregoing affidavit and he has read the same and knows the contents thereof and that the allegations therein contained are true, except as to those things alleged to be of record in the Susan S. Burton case, and such allegations, upon information and belief, he believes to be true as therein stated.

Henry H. Dees
AFFIANT.

Subscribed and sworn to by the said Henry H. Dees before the un-

dersigned authority on this 24 day of June A. D. 1906.

(SEAL)

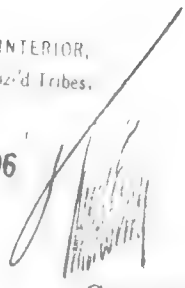
My Commission Expires January 1, 1910
J. A. Callahan

In re Application of
Susan S. Burton, et al
Miss. Choctaw Applicants

Affidavit of
Henry H. Elco

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.

FILED
JUL - 6 1906



Commissioner

OSWALD S. PARKER,
LAWYER
BEAUMONT, TEXAS.

BEFORE THE HONORABLE COMMISSIONERS TO THE FIVE CIVILIZED TRIBES, IN RE
APPLICATION OF SUSAS S. BURTON, ET AL MISS. CHOCTAW APPLICANTS.

Petition of Mrs. Mary E. Dees, nee Burton, her children and her grand children to be enrolled as Miss. Choctaws as original applicants in the above case of Susan S. Burton, et al.

Now comes your petitioners, through their attorney, William W. Wright of Washington, D. C., namely Mrs. Mary E. Dees, for herself and in behalf of her following named children: Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fanny E. Dees, Katiebelle Dees, and Willie W. Dees, and also in behalf of her following named grandchildren: Tommy W. Dees, Herbut Dees and Sammie D. Wood, and respectfully shows:

That your said petitioner, Mrs. Mary E. Dees is a resident of Mc Comb City, Mississippi, and is the legal wife of W. H. Dees, and her above named children are the lawful issue of such marriage, and that her above named son, Henry H. Dees, has been and is now lawfully married, and her above named grand children, to-wit: Tommy Dees and Herbut Dees are the lawful issue of said Henry H. Dees, and that her above named Daughter, Mary E. Wood, nee Dees also has been and is now lawfully married and that your petitioner's above named grand child, Sammie D. Wood, is the lawful issue of the said Mary D. Wood. That Your said petitioner is the daughter of Susas S. Burton, the above named applicant, and that her said children are the grand children of the said Susan S. Burton, and her above named grand children are the great grand children of the said Susan S. Burton.

That, some time on or before the year 1902, said Susan S. Burton made application along with the rest of her family for identification and enrollment as a Mississippi Choctaw Indian in a certain application entitled as above. March 4, 1902, an opinion was rendered by the Honorable Secretary of the Interior, remanding said application for additional consideration by the Five Civilized Tribes, and that, thereafter, November 24, 1903, the applicants mentioned in said application, comprising said Susan S. Burton and certain members of her family were ordered enrolled by the Honorable Secretary, and since that date the said applicants have had certain lands of the Choctaw Nation allotted to them.

That, your petitioner shows that it appears as a matter of record in the testimony given in the application of Susan S. Burton, et al, that an application in fact was actually made in behalf of your petitioner in said Burton case, by reason of the fact

make application, but this opportunity was denied her by the officers of the Commission appointed to hear said application. A further reference to the record in said Burton's case discloses the fact that the name of your petitioner was actually mentioned and appears as a matter of record, all of which appears on page 65 of the records in the testimony of Susan Cornelia Marshall taken on Dec. 19, 1901, as follows:

"Q. Can you give the names of your brothers and sisters?
A. John Ezra Burton, Fannie E. Burton, Laura K. Burton, Mary E. Burton; do you want their maiden names?
Q. Just continue as you are. A. Henry D. Burton, Hardy C. Burton, Cornelia S. Burton, Lillie M. Burton, and George W. Burton."

At the time said testimony was given your petitioner was then married to W. H. Dees, having been married to him on the 7th day of Aug in the year 1877 and her name was at that time the same as now, Mrs. Mary E. Dees, but her maiden name was Mary E. Burton, and Susan Cornelia Marshall who testified as aforesaid was the sister of your petitioner, and in giving said testimony, the said Susan Cornelia Marshall gave the maiden name of your petitioner, Mary E. Burton.

Upon information and belief, your petitioner shows that the status of her claim is similar to that of Mrs. Laura K. McPhail, nee Burton, and George W. Morrison, all of which has been the subject of official action by the Secretary of the Interior and the officers of the Commission to the Five Civilized Tribes, to which reference is hereby made.

Your petitioner further shows that she has not been guilty of any laches in prosecuting her rights to be indentified as a Miss. Choctaw and etc., but has always been under the impression that she would be duly enrolled with the rest of her family by reason of the efforts made in her behalf by Susan S. Burton, her mother, if under the law she were entitled to such enrollment.

Premises considered, your petitioner prays as follows:

1. That this petition be considered upon its merits and that the rights of petitioner be considered in view of the rights established in said application of Susan S. Burton, et al, and that she be enrolled as a Miss. Choctaw.

2. That she be permitted to address such testimony before the Commissioner to the Five Tribes as may be necessary to identify

herself as the daughter of said Susan S. Burton and as the "Mary E. Burton", appearing in the record in said case,

3. That she be granted such other and further relief as to your Honor may seem proper in the premises for a complete protection to her rights.

William O. McArthur
ATTORNEY FOR PETITIONER.

A F F I D A V I T.

STATE OF MISSISSIPPI)
COUNTY OF _____) ss.

Mrs. Mary E. Dees, being personally well known to me, being first duly sworn upon oath deposes and says: She is the petitioner named in the foregoing and annexed petition and that she has read the same and knows the contents thereof and that the allegations therein contained are true, except as to those matters alleged upon information and belief, and as to those facts, she believes it to be true. Affiant makes this application in perfect good faith and not for the purpose of any delay and believe that she has a just claim and that she is fully entitled to the relief prayed for in said petition.

Mary E. Dees

Sworn and subscribed to before me this 8 day of June, 1906.

Justin J. Cassidy
NOTARY PUBLIC.

My Commission expires July 27 - 1908.

Affidavit of Service.

City of Washington,
SS.
District of Columbia

William W. Wright being first duly sworn upon oath deposes and says: He is the attorney for Mary E. Dees, the petitioner named in the foregoing petition annexed hereto and that the same is filed in good faith and not for any purposes of delay. Affiant served a true copy of said petition on the Choctaw Nation, on the 13 day of June, 1906, by mailing said copy, by registered mail, to Mansfield Mc.Murray & Cornish, attorneys for said nation, directed to them at So. Mc.Alester I. T., as appears from the official receipt of the postmaster at Washington D. C., hereto attached.

William W. Wright

Subscribed and sworn to before me this 13th day of June 1906.

J. D. [Signature]
Notary Public D. C.

<small>U. S. Registered Mails go to every post office in the world. Provide for safe transit and correct delivery. Letters and parcels may be registered at any post office at regular office hours. Letters will be registered by mail carriers in the residential districts of cities. Letters and parcels will be registered by rail carriers through their routes. For letters and parcels delivered through a U. S. postman, the sender, without request and without charge, receives the addressee's acknowledgment, and when delivered through a post office of a foreign country, if the words "Foreign Demand" be indorsed on the address side of the letter or parcel.</small>	Letter 130610 P. O., Washington, D. C.
	Received for registration 6-13, 1906, from <i>Mansfield Mc. Murray & Cornish</i> addressed to <i>So. Mc. Alester I. T.</i> class postage prepaid. Postmaster, per <i>[Signature]</i>

Before the Hon. Commission
of the Five Civilized
Tribes.

In Re. Application of
Susan S. Burton and

for re-conduation

Petition of Mary E.

Does not, for surroghum

as original applicants

in above entitled

application



W. W. Wright
Atty for petitioners
Crown Ridge
Washington D.C.

DEPARTMENT OF THE INTERIOR (COPY)
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. March 12, 1906.

Land.
1862-1904.
1864-1904.

The Honorable,
The Secretary of the Interior.

Sir:

The Office is in receipt of Departmental letter of February 23 (I.T.D. 1921-1904), enclosing a communication to the Assistant Attorney General for the Interior Department, dated February 12, 1904, from C. C. McCarty, submitting certain papers in behalf of George W. Morrison and family, claimants as Mississippi Choctaws.

The Department requests the Office, in connection therewith, to examine the record in the case of Susan S. Burton, et al., the subject of Departmental letters of November 24, 1903, and March 4, 1904, particularly as to whether any application was made for the identification of George (Georgia) W. Burton, the wife of George W. Morrison, as alleged in the affidavits submitted.

An examination of the records in the Mississippi Choctaw case of Susan S. Burton, et al., has been made in reference to the inquiry of the Department. The affidavit of Georgia W. Morrison, the daughter of Susan S. Burton, contains

the statement, "She (Susan S. Burton) gave the names of her children at the time she made application for enrollment, except those whose names were already enrolled, including applicant."

There is nothing in the record in the Susan S. Burton case to support this contention except that on page 2 of the record, which contains a part of the examination of Susan S. Burton, the following appears:

Q. The application you are making is simply for yourself?

A. Yes, I want to identify my children.

The name of this daughter was not given by Mrs. Burton in connection with her examination. The affidavits and papers submitted by Mr. McCarty and the original record in the Susan S. Burton case are enclosed.

Very respectfully,

C. F. Burabee,

Acting Commissioner.

MS-Y.

7440
MCR 3000

Muskogee, Indian Territory, June 29, 1906.

Mary E. Dees,
MoComb City, Miss.

Dear Madam:

There is enclosed herewith copy of an order of the
Commissioner to the Five Civilized Tribes dated June 29, 1906,
consolidating the petitions for identification as Mississippi
Choctaws of

Georgia W. Morrison, et al.,
Laura K. McPhail, et al.,
Lillie Margaret Fountain,
Mary E. Dees, et al.,
Bessie E. Wiltshire,

and setting a hearing upon said petitions to be had at the office
of the Commissioner to the Five Civilized Tribes at Muskogee,
Indian Territory, on Friday July 6, 1906, at 9:00 a. m.

Respectfully,

Commissioner

STW 4/29

Registered.

M C R 7440

COPY.

Muskogee, Indian Territory, August 8, 1906.

Mary E. Dees,
McComb City, Mississippi.

Dear Madam:

You are hereby notified that on August 6, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that you should be identified as a Mississippi Choctaw under the provisions of the 14th article of the treaty of 1830, and refusing to receive or consider the application for the identification of your children, Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees, Katiebelle Dees and Willie W. Dees, and your grandchildren, Tommie W. Dees, Herbert Dees and Sammie D. Wood, as Mississippi Choctaws. The rights of the minor children under the Act of Congress approved April 26, 1906, are not passed upon in said decision.

Respectfully,

SIGNED



Acting Commissioner.

Registered.

OR.

DEPARTMENT OF THE INTERIOR, L.L.B.

I.T.D. 1896-1902.
4226-1905.
18908-1906.
7240 "
JG.

WASHINGTON. October 22, 1906.

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

August 10, 1906, you transmitted the consolidated applications for identification as Mississippi Choctaws of George W. Morrison et al., Laura K. McPhail et al., Lillie Margaret Fountain, Mary E. Dees et al., Fannie E. Wiltshire, and Sallie D. Marx et al., wherein on August 6, 1906, you held that the records show that George W. Morrison, Laura K. McPhail, Lillie Margaret Fountain, Mary E. Dees, and Fannie E. Wiltshire are the daughters of Susan S. Burton, an identified and enrolled Mississippi Choctaw; that Sallie D. Marx is the grand daughter of the said Susan S. Burton; that application for the identification of the above-named applicants as Mississippi Choctaws was made prior to March 25, 1903, and within the time limited by the provisions of the act of Congress approved July 1, 1902 (32 Stat., 641), and that the above-named applicants are entitled to identification as Mississippi Choctaws under the provisions of article 14 of the treaty of September 27, 1830.

The records further show that the Commission to the Five Civilized Tribes was apprized prior to March 25, 1903, of the

fact that applicants George W. Morrison, Laura K. McPhail, and Mary E. Dees were the married daughters of Susan S. Burton, and as mothers of children were the heads of families of Choctaw Indians, which served to advise the Commission of the existence of such a family of Indians, and under the decision of the Department of August 5, 1908 (I.T.D.8840), in the case of Isaac Leflore, it was the duty of the Commission to pursue that inquiry further to ascertain the names of said children in order to determine their rights. This information brought to the attention of the Commission within the time prescribed by section 41 of the act of July 1, 1902, "served to advise it of the existence" of each family, and "was in every respect, fully and completely the legal equivalent of an application made in due time" for the children of the married applicants identified as Mississippi Choctaws, whether said children be named in the application or not. The Commission was specially charged with the duty of instituting a full investigation as to the rights of all the members of said family of Choctaw Indians, and in this case the party applying for the absent Mississippi Choctaws was refused permission to disclose the names of her children and her children's children, for the reason that the Commission was then under the impression that each adult applying for identification as a Mississippi Choctaw would be required to make a personal applica-

tion for identification as such, but the regulation requiring personal application on the part of applicants was expressly waived as to Mississippi Choctaws who applied for identification by departmental letter of October 19, 1900 (I.T.D. 3432).

The Department is of opinion that the record satisfactorily shows that application for the enrollment of the children of the above-named identified Mississippi Choctaws was made within the time required by the act of July 1, 1902 (32 Stats. 641), and that the adult children of the above-named identified Mississippi Choctaws are entitled to be so identified, and you are directed to identify them as such.

Inasmuch as you have not passed upon the rights of the minor children of the above-identified Mississippi Choctaws, awaiting departmental action on the application of their mothers, and as their rights are held in abeyance to be determined under section 2 of the Act of April 26, 1904 (34 Stat., 137), as amended by the act of Congress approved June 21, 1906 (34 Stat., 323-324), you are directed to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Morrison, Laura K. McPhail, Mary E. Dees, and Sallie D. Marx, as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830.

Your decision refusing to identify John F. Morrison and Lucy C. Burton as intermarried Mississippi Choctaws is hereby affirmed, in accordance with departmental letter of July 30, 1903, in the case of Samuel B. Gee et al., wherein it was held that "as intermarried persons, wives or husbands of persons entitled to be identified, are not provided for in the strict terms of the agreement, their identification thereunder is not warranted".

The Commissioner of Indian Affairs reporting thereon September 26, 1906, recommended that both the children and grandchildren of Susan S. Burton be identified as Mississippi Choctaws. A copy of his letter is inclosed.

The consolidated records, including the record in the Susan S. Burton case, have this day been returned for the files of the Indian Office.

Respectfully,

(Signed) E. A. WITCOMB,
Secretary.

Through the Commissioner
of Indian Affairs.

15 inclosures.

MCR 7440

Muskogee, Indian Territory, December 3, 1906.

Mary E. Dees,

McComb City, Mississippi.

Dear Madam :--

You are hereby notified that you may in person or by petition, designate to the Choctaw land office at Atoka, Indian Territory, or the Chickasaw Land office at Ardmore, Indian Territory, the lands which you desire to select as the prospective allotments of yourself and children, pending approval by the Secretary of the Interior of your identification as Mississippi Choctaws.

Respectfully,

Acting Commissioner.

JP
JLB

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D. 14761-1906.

December 4, 1906.

LRB

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir :--

The Department is in receipt of a letter from the attorney for the applicants in the Mississippi Choctaw case of Georgia Morrison, et al., the subject of Departmental letter of October 22, 1906, in which he requests that you be directed to permit the persons to said case who have been identified as Mississippi Choctaws to make tentative allotments, which it seems you have refused to permit.

It is requested that you take action in this matter in accordance with the instructions contained in Departmental letter of November 22, 1906, relative to the petition of Manervia F. Swadley, et al.

Respectfully,

(Signed) Thos. Ryan,

First Assistant Secretary.

M.C.R. 7440.

Muskogee, Indian Territory, January 7, 1907.

Mary E. Dees,

McComb City, Mississippi.

Dear Madam:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing your name and the names of your eight children Henry H. Dees, Mary E. Wood, George A. Dees, Walter T. Dees, Edgar R. Dees, Oscar E. Dees, Fannie E. Dees and Katiebelle Dees, and that the said names appear upon the schedule referred to as follows:

No. 2497 Mary E. Dees,
No. 2498 Henry H. Dees,
No. 2499 Mary E. Wood,
No. 2500 George A. Dees,
No. 2501 Walter T. Dees,
No. 2502 Edgar R. Dees,
No. 2503 Oscar E. Dees,
No. 2504 Fannie E. Dees,
No. 2505 Katiebelle Dees.

The Act of Congress approved July 1, 1902 (32 Stats., 641), provides -

"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of The Act of Congress approved June 25, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year

M. E. D. 2

after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

Under the above provision of law it is necessary for you and your children heretofore named to remove to and establish a bona fide residence within the Choctaw-Chickasaw country, Indian Territory, prior to June 26, 1907.

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for you and your children to secure the benefits accruing to your identification as Mississippi Choctaws and your enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes, and your enrollment as Mississippi Choctaws approved by the Secretary of the Interior prior to March 4, 1907. The short time within which this procedure can be accomplished makes it obligatory upon you to establish your residence within the Choctaw-Chickasaw country and submit proof thereof to the

M. E. D. 3^{cr}

Commissioner to the Five Civilized Tribes with the least possible delay.

It is earnestly suggested that the compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted wither to the Choctaw land office at Atoka, Indian Territory, or the Chickasaw land office at Ardmore, Indian Territory, not later than January ~~17~~²⁰, 1907.

This latter date is suggested for the reason that the ministerial duty of securing the approval of your enrollment as Mississippi Choctaws by the Secretary of the Interior prior to March 4, 1907, will not permit of delaying this matter later than that date.

Respectfully,

Commissioner.

M.C.N. 7440.

Muskoge, Indian Territory, March 9, 1907.

Mary E. Dees,

Durant, Indian Territory.

Dear Madam:

Your letter dated February 17, 1907, to the Secretary of the Interior relative to the selection of allotment of your minor son, Walter T. Dees, has been referred to this Office.

In reply thereto, you are advised that the matter of the enrollment of the said Walter T. Dees is now before the Secretary of the Interior, and this Office has not to this date been informed of any decision concerning same.

You are further advised that you will be notified of any action in said case at an early date as practical.

Respectfully,

Commissioner.

Choctaw MCR 7441

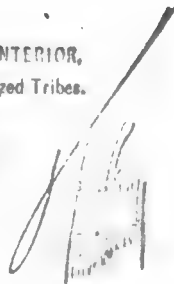
Lillie M. Fountain

MCR 7441

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.

FILED

JUL -6 1906



Commissioner

Exhibit A

DEPARTMENT OF THE INTERIOR,
WASHINGTON. **PHE.**

I.T.D. 3409-1905.

April 15, 1905.

R 18

Mrs. Lillie M. Fountain,
Durant, Indian Territory.

Madam:

Replying to your letter of the 8th instant, relative to the enrollment of certain "delinquent" Mississippi Choctaws, you are advised that your communication has been referred to the Commission to the Five Civilized Tribes for consideration and appropriate action.

Respectfully,

W. M. Miller
Assistant Secretary.

DEPARTMENT OF THE INTERIOR (COPY)
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. March 12, 1906.

Land.
18624-1904.
19046-1906.

The Honorable,

The Secretary of the Interior.

Sir:

The Office is in receipt of Departmental letter of February 23 (I.T.D. 1921-1906), enclosing a communication to the Assistant Attorney General for the Interior Department, dated February 12, 1906, from C. C. McCarty, submitting certain papers in behalf of George W. Morrison and family, claimants as Mississippi Chestnuts.

The Department requests the Office, in connection therewith, to examine the record in the case of Susan S. Burton, et al., the subject of Departmental letters of November 24, 1903, and March 4, 1904, particularly as to whether any application was made for the identification of George (Georgia) W. Burton, the wife of George W. Morrison, as alleged in two affidavits submitted.

An examination of the records in the Mississippi Chestnut case of Susan S. Burton, et al., has been made in reference to the inquiry of the Department. The affidavit of Georgia W. Morrison, the daughter of Susan S. Burton, contains

the statement, "She (Susan S. Burton) gave the names of her children at the time she made application for enrollment, except those whose names were already enrolled, including applicant."

There is nothing in the record in the Susan S. Burton case to support this contention except that on page 2 of the record, which contains a part of the examination of Susan S. Burton, the following appears:

- Q. The application you are making is simply for yourself?
A. Yes, I want to identify my children.

The name of this daughter was not given by Mrs. Burton in connection with her examination. The affidavits and papers submitted by Mr. McCarty and the original record in the Susan S. Burton case are enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EMH-Y.

7441
M C R 3007

Muskogee, Indian Territory, June 29, 1906.

Lillie Margaret Fountain,
Humble, Texas.

Dear Madam:

There is enclosed herewith copy of an order of the
Commissioner to the Five Civilized Tribes dated June 29, 1906,
consolidating the petitions for identification as Mississippi
Choctaws of

Georgia W. Morrison, et al.,
Laura E. McPhail, et al.,
Lillie Margaret Fountain,
Mary E. Dees, et al.,
Fannie E. Wiltshire,

and setting a hearing upon said petitions to be had at the office
of the Commissioner to the Five Civilized Tribes at Muskogee,
Indian Territory, on Friday, July 6, 1906, at nine o'clock A. M.

Respectfully,

Commissioner.

MCM 29/1

Registered.

M C R 7441

COPY.

Muskogee, Indian Territory, August 8, 1906.

Lillie M. Fountain,
Humble, Texas.

Dear Madam:

You are hereby notified that on August 6, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that you should be identified as a Mississippi Choctaw under the provisions of article 14 of the treaty of 1830.

Respectfully,

SIGNED



Acting Commissioner.

Registered.

62.

DEPARTMENT OF THE INTERIOR, LIS.

I.T.D. 1898-1902.

WASHINGTON.

October 28, 1906.

4226-1905.

18908-1906.

7240 "

JU.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 10, 1906, you transmitted the consolidated applications for identification as Mississippi Choctaws of George W. Morrison et al., Laura K. McPhail et al., Lillie Margaret Fountain, Mary E. Dees et al., Fannie E. Wiltshire, and Sallie D. Marx et al., wherein on August 6, 1906, you held that the records show that George W. Morrison, Laura K. McPhail, Lillie Margaret Fountain, Mary E. Dees, and Fannie E. Wiltshire are the daughters of Susan S. Burton, an identified and enrolled Mississippi Choctaw; that Sallie D. Marx is the grand daughter of the said Susan S. Burton; that application for the identification of the above-named applicants as Mississippi Choctaws was made prior to March 26, 1905, and within the time limited by the provisions of the act of Congress approved July 1, 1902 (32 Stat., 641), and that the above-named applicants are entitled to identification as Mississippi Choctaws under the provisions of article 14 of the treaty of September 27, 1830.

The records further show that the Commissioner to the Five Civilized Tribes was apprised prior to March 26, 1905, of the

fact that applicants George W. Morrison, Laura K. McPhail, and Mary E. Dees were the married daughters of Susan E. Burton, and as mothers of children were the heads of families of Choctaw Indians, which served to advise the Commission of the existence of such a family of Indians, and under the decision of the Department of August 8, 1908 (I.T.D.8840), in the case of Isaac Leflore, it was the duty of the Commission to pursue that inquiry further to ascertain the names of said children in order to determine their rights. This information brought to the attention of the Commission within the time prescribed by section 41 of the act of July 1, 1902, "served to advise it of the existence" of each family, and "was in every respect, fully and completely the legal equivalent of an application made in due time" for the children of the married applicants identified as Mississippi Choctaws, whether said children be named in the application or not. The Commission was specially charged with the duty of instituting a full investigation as to the rights of all the members of said family of Choctaw Indians, and in this case the party applying for the absent Mississippi Choctaws was refused permission to disclose the names of her children and her children's children, for the reason that the Commission was then under the impression that each adult applying for identification as a Mississippi Choctaw would be required to make a personal applica-

tion for identification as such, but the regulation requiring personal application on the part of applicants was expressly waived as to Mississippi Choctaws who applied for identification by departmental letter of October 19, 1900 (I.T.D. 3432).

The Department is of opinion that the record satisfactorily shows that application for the enrollment of the children of the above-named identified Mississippi Choctaws was made within the time required by the act of July 1, 1902 (32 Stats. 641), and that the adult children of the above-named identified Mississippi Choctaws are entitled to be so identified, and you are directed to identify them as such.

Inasmuch as you have not passed upon the rights of the minor children of the above-identified Mississippi Choctaws, awaiting departmental action on the application of their mothers, and as their rights are held in abeyance to be determined under section 2 of the Act of April 26, 1906 (34 Stat., 137), as amended by the act of Congress approved June 21, 1906 (34 Stat., 328-324), you are directed to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Morrison, Laura K. McPhail, Mary E. Dees, and Sallie D. Marx, as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830.

Your decision refusing to identify John F. Morrison and Lucy C. Burten as intermarried Mississippi Choctaws is hereby affirmed, in accordance with departmental letter of July 30, 1903, in the case of Samuel B. Gee et al., wherein it was held that "as intermarried persons, wives or husbands of persons entitled to be identified, are not provided for in the strict terms of the agreement, their identification thereunder is not warranted".

The Commissioner of Indian Affairs reporting thereon September 28, 1906, recommended that both the children and grandchildren of Susan S. Burten be identified as Mississippi Choctaws. A copy of his letter is inclosed.

The consolidated records, including the record in the Susan S. Burten case, have this day been returned for the files of the Indian Office.

Respectfully,

(Signed) E. A. HITCHCOCK,
Secretary.

Through the Commissioner
of Indian Affairs.

15 inclosures.

MCR 7441

Muskogee, Indian Territory, December 3, 1906.

Lillie M. Fountain,
Humble, Texas.

Dear Madam :--

Receipt is hereby acknowledged of your letter of November 20, 1906, requesting to be advised how long you will have in which to remove and settle in the Indian Territory.

In reply you are advised that the Act of Congress approved July 1, 1902, (32 Stats., 641), provides that identified Mississippi Choctaws shall have six months from the date of their identification within which to remove to and made settlement within the Choctaw-Chickasaw country of Indian Territory and that they shall have twelve months from said date of identification within which to appear at the Choctaw or Chickasaw land office and submit proof of such removal and settlement. It is suggested, however, that you remove and settle in the Choctaw-Chickasaw country of Indian Territory, in the near future.

You are further advised that you may designate in person or by petition to the Choctaw land office at Atoka, or the Chickasaw land Office at Ardmore, Indian Territory, the lands you desire to select as your prospective allotments, pending your identification as Mississippi Choctaws by the Secretary of the Interior.

Respectfully,

Acting Commissioner.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

JP
ILB

I.T.D. 14761-1906.

December 4, 1906.

LRS

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir :--

The Department is in receipt of a letter from the attorney for the applicants in the Mississippi Choctaw case of Georgia Morrison, et al., the subject of Departmental letter of October 22, 1906, in which he requests that you be directed to permit the persons to said case who have been identified as Mississippi Choctaws to make tentative allotments, which it seems you have refused to permit.

It is requested that you take action in this matter in accordance with the instructions contained in Departmental letter of November 22, 1906, relative to the petition of Manrvia F. Swadley, et al.

Respectfully,

(Signed) Thom. Ryan,

First Assistant Secretary.

V. C. E. 7441.

Muskogee, Indian Territory, January 7, 1907.

Lillie M. Fountain,

Humble, Texas.

Dear Madam:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing your name, and your name appears thereon opposite No. 2506.

The Act of Congress approved July 1, 1902 (32 Stats., 641), provides -

"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

Under the above provision of law it is necessary for you to remove to and establish a bona fide residence within the Choctaw-Chickasaw country, Indian Territory, prior to June 26, 1907.

Your attention is, however, invited to the following pre-

L. M. P. 2

vision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for you to secure the benefits accruing to your identification as a Mississippi Choctaw and your enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes, and your enrollment as a Mississippi Choctaw approved by the Secretary of the Interior prior to March 4, 1907. The short time within which this procedure can be accomplished makes it obligatory upon you to establish your residence within the Choctaw-Chickasaw country and submit proof thereof to the Commissioner to the Five Civilized Tribes with the least possible delay.

It is earnestly suggested that the compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted either to the Choctaw land office at Atoka, Indian Territory, or the Chickasaw land office at Ardmore, Indian Territory, not later than January ²⁰~~25~~, 1907.

This latter date is suggested for the reason that the

L. M. P. 3

ministerial duty of securing the approval of your enrollment as
Mississippi Choctaws by the Secretary of the Interior prior to
March 4, 1907, will not permit of delaying this matter later than
that date.

Respectfully,

Commissioner.

BEFORE THE HONORABLE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In re Application of Susan S. Burton, et al, Miss. Choctaw applicants.

Petition of Mrs. Lillie Margaret Fountain, nee Burton, to be enrolled as a Miss. Choctaw as an original applicant in the above case of Susan S. Burton, et al.

Now comes Mrs. Lillie Margaret Fountain, the petitioner above named, by her attorney William W. Wright of Washington, D.C., and respectfully shows.

She is now a resident of Humble, Texas, and is the daughter of Mrs. Susan S. Burton, who is named as the principal applicant in the above entitled application and who has been identified as a Miss. Choctaw and duly enrolled as such.

Your petitioner shows that it appears, as a matter of record, in the testimony given in the application of said Susan S. Burton, et al, that an application in fact was actually made in behalf of your petitioner in said Burton case, by reason of the fact that said Susan S. Burton offered and attempted to mention to the Commission the names of all of her children, for whom she decided to make application, but this opportunity was denied her by the officers of the Commission appointed to hear said application. A further reference to the record in said Burton's case discloses the fact that the name of your petitioner was actually mentioned and appears as a matter of record, all of which appears on page 65 thereof, in the testimony of Susan Cornelia Marshall taken on Dec. 19, 1901, as follows:

- Q. Can you give the names of your brothers and sisters?
A. John Ezra Burton, Fannie E. Burton, Laura E. Burton, Mary E.

Burton; do you want their maiden names?

Q. Just continue as you are. A. Henry D. Burton, Hardy C. Burton, Cornelia S. Burton, Lillie M. Burton, and George W. Burton."

At the time said testimony was given, your petitioner was unmarried and was known by the name of "Lillie M. Burton". Your petitioner married on May 13, 1903, and her name since then has been Lillie M. or Lillie Margaret Fountain.

Upon information and belief, your petitioner shows that the status of her claim is similar to that of Mrs. Laura K. McPhail, nee Burton and George W. Morrison, all of which has been the subject of official action by the Secretary of the Interior and the office of the Commissioner to the Five Civilized Tribes, to which reference is hereby made.

Your petitioner further shows that she has not been guilty of any laches in prosecuting her rights to be identified as a Miss. Choctaw, etc., but has always been under the impression that a sufficient application was made in her behalf by reason of the efforts of Susan S. Burton, her mother, and has heretofore supposed that she would be duly enrolled with the rest of the family. As evidence of the continued good faith of your petitioner in her attempts to assert her rights as a Miss. Choctaw, petitioner shows that in the year 1904 she induced her husband to sell their property and moved to Durant, Indian Territory for the purpose of establishing her claim. On or about the 13th day of January, 1904, an enrolling party sent out by the Commissioner to the Five Tribes appeared at Durant, I.T. and your petitioner appeared before said enrolling party for enrollment, only to be informed that said party had no authority to receive the application of any Miss. Choctaw but were simply authorized to receive the application of delinquents and babies.

Your petitioner further shows that she had made application for identification and enrollment as a Mississippi Choctaw prior to December 1st, 1905, by reason of the fact that on November 28, 1904, she wrote a letter to the Secretary of the Interior, and the Department, by letter of December 6, 1904, notified your petitioner to the effect that the said letter had been referred to the Commission to the Five Civilized Tribes for consideration and appropriate action. Said Commission, by their letter of December 10, 1904, notified petitioner of the receipt of said letter of the Department and otherwise advised her in regard to her claim, all of which more fully appears from copies of said letters hereto attached, marked Exhibits "A" and "B".

The premises considered, your petitioner prays as follows:

1. That this petition be considered upon its merits and that the rights of petitioner be considered in view of the rights already established in the said application of Susan S. Burton et al, and that petitioner be enrolled as a Mississippi Choctaw.
2. That, in addition to the other grounds alleged in the foregoing petition, said letters referred to as exhibits A and B, be considered and held to be an application prior to December 1, 1905, according to the provisions of the act of April 26th, 1906.
3. That petitioner be permitted to adduce such testimony before the Commissioner to the Five Tribes as may be necessary to identify herself as the daughter of said Susan S. Burton and as the "Lillie M. Burton", appearing in the record in said case.
4. That she be granted such other and further relief as to your Honor may seem proper in the premises for complete protection to her rights.

William D. Wright
 Attorney for Petitioner.

M.E.F.
RJE

DEPARTMENT OF THE INTERIOR

WASHINGTON.

December 6, 1904.

I.T.D. 9815-1904.

L.R.S.

Mrs. Lillie M. Fountain,

Durant, Ind. Ter.

Madam:

The Department is in receipt of your communication of November 28, 1904, in regard to the Mississippi Choctaw claim of yourself and your sister, Georgia Morrison, and her children. You are informed that same has been referred to the Commission to the Five Civilized Tribes for consideration and appropriate action.

Respectfully,

Edward M. Dawson,

Chief Clerk.

Ethel A.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 10, 1904.

Mrs. Lillie M. Fountain,
Durant, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of November 28, 1904, by reference from the Secretary of the Interior. You ask to be advised relative to making application for identification as a Mississippi Choctaw in order that you may receive an allotment.

In reply your attention is invited to the following provision of the Act of Congress approved July 1, 1902, which was ratified by the citizens of the Choctaw and Chickasaw Nations September 25, 1902:

"The application for no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement."

Under the above legislation this Commission is now without authority to receive or consider the original application of any person for identification as a Mississippi Choctaw.

Respectfully,

E. Hubin B.

Tans Bixby,

Chairman.

A F F I D A V I T.

State of Texas,)
) ss.
County of Harris.)

Mrs. Lillie Margaret Fountain, being personally well known to me, being first duly sworn upon oath deposes and says: She is the petitioner named in the foregoing and annexed petition and that she has read the same and knows the contents thereof and that the allegations therein contained are true, except as to those matters alleged upon information and belief, and as to those facts she believes it to be true. Affiant makes this application in perfect good faith and not for the purposes of any delay and believes that she has a just claim and that she is fully entitled to the relief prayed for in said petition.

Mrs. Lillie Margaret Fountain

Sworn and subscribed to before me this 2nd day of June 1906
day of June, 1906.

P. P. Hunsdale

Notary Public.

in & for Harris County Texas

My commission expires June 4th 1907

Affidavit of Service.

City Of Washington,
District of Columbia, SS.

William W. Wright, being first duly sworn, upon oath deposes and says: He is the attorney for the petitioner, Lillie Margaret Fountain, named in the foregoing and annexed petition, and that, on the 8th, day of June 1906, he served a true copy of said petition and exhibits in support thereof upon the Choctaw Nation, by mailing said copy, by registered mail, to Mansfield Mc.Murray & Cornish, attorneys for said Nation, directed to them at So. Mc.Alester I. T., all of which more fully appears from the official receipt of the postmaster at Washington D. C., hereto attached. Affiant also further says that, in his opinion, the aforesaid petitioner has a just and meritorious claim and is entitled to the relief sought and that this petition is not filed for the purposes of any delay but in perfect good faith.

William W. Wright

Subscribed and sworn to before me this Eighth day of June, 1906.

A. Murray
Notary Public, D. C.

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Letter Parcel No. 79 P. O. Washington, D. C.
Received for registration June 8, 1906 from
Wm. W. Wright Attorney
addressed to Mansfield Mc Murray & Cornish
So. Mc Alester I. T.
Postage prepaid. Postmaster, [Signature]

BEFORE THE HONORABLE COMMISSION-
ER TO THE FIVE CIVILIZED TRIBES.

In re application of Susan S.
Burton, et al, Miss. Choc-
taw applicants.

FILED
JUN 11 1906
COMMISSION TO FIVE TRIBES

Petition of Lillie M. Foun-
tain, nee Burton, to be enrolled
as an original applicant in the
above mentioned "Bur-
ton" application.

William W. Wright,
Attorney for applicant,
Corcoran Building,
Washington, D.C.

Choctaw MCR 7442

Fannie E. Wiltshire

MCR 7442

BEFORE THE HONORABLE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In re Application of Susan S. Burton, et al, Miss. Choctaw applicants.

Petition of Mrs. Fannie E. Wiltshire, nee Burton, to be enrolled as a Miss. Choctaw as an original applicant in the above case of Susan S. Burton, et al.

Now comes Mrs. Fannie E. Wiltshire, the petitioner above named, by her attorney William W. Wright of Washington, D. C., and respectfully shows:

She is now a resident of Smithdale, Mississippi, and is a daughter of Mrs. Susan S. Burton, who is named as the principal applicant in the above entitled application, and who has been identified as a Miss. Choctaw and duly enrolled as such.

Your petitioner shows that it appears, as a matter of record, in the testimony given in the application of said Susan S. Burton, et al, that an application in fact was actually made in behalf of your petitioner in said Burton case, by reason of the fact that said Susan S. Burton offered and attempted to mention to the Commission the names of all of her children, for whom she decided to make application, but this opportunity was denied her by the officers of the Commission appointed to hear said application. A further reference to the record in said Burton's case discloses the fact that the name of your petitioner was actually mentioned and appears as a matter of record, all of which appears on page 66 thereof, in the testimony of Susan Cornelia Marshall taken on Dec. 18, 1901, as follows:

- Q. And you give the names of your brothers and sisters?
A. John Ezra Burton, Fannie E. Burton, Laura E. Burton, Mary E. Burton; do you want their maiden names?
Q. Just continue as you are. A. Henry D. Burton, Hardy G. Burton, Cornelia S. Burton, Lillie M. Burton, and George W. Burton."

At the time said testimony was given your petitioner was then married to G. F. Wiltshire, having been married to him on the 10th day of Nov in the year 1877, and her name was at that time the same as now, Mrs. Fannie E. Wiltshire, but her maiden name was Fannie E. Burton, and Susan Cornelia Marshall was

testified as aforesaid was the sister of your petitioner, and in giving said testimony, the said Susan Cornelia Marshall gave the maiden name of your petitioner, Fannie E. Burton.

Upon information and belief, your petitioner shows that the status of her claim is similar to that of Mrs. Laura K. Mc Phail, nee Burton, and George W. Morrison, all of which has been the subject of official action by the Secretary of the Interior and the officers of the Commission to the Five Civil Tribes, to which reference is hereby made.

Your petitioner further shows that she has not been guilty of any lapses in prosecuting her rights to be identified as a Miss. Choctaw and etc., but has always been under the impression that she would be duly enrolled with the rest of her family by reason of the efforts made in her behalf by Susan S. Burton, her mother, if under the law she were entitled to such enrollment, and your petitioner would further show that she was advised that there was a great deal of confusion and uncertainty about what was required in order to secure her rights as a Miss. Choctaw, and was advised that she might go to considerable expense and trouble to secure an allotment of the said Miss. Choctaws, without there being any certainty of her being allowed to retain such allotment after it was made.

That your petitioner was advised and believed that her brother, John E. Burton went to the Indian Territory about ten years ago and secured an allotment as he thought, and lived on the land so allotted about two years when he died, and that upon his death, his daughter who was his heir, was unable to hold said land, or to recover the same, and these things together with the facts that your petitioner could not afford to incur any considerable expense with the prospect of no return therefor, has prevented your petitioner from heretofore taking any action to secure her identification and enrollment as a Miss. Choctaw, other than such action as has been taken in her behalf by her mother, Mrs. Susan S. Burton.

Premises considered, your petitioner prays as follows:

1. That this petition be considered upon its merits and that the rights of petitioner be considered in view of the rights established in the case of Mrs. Laura K. Mc Phail and George W. Morrison.

that she be enrolled as a Miss Choctaw.

2. That she be permitted to adduce such testimony before the Commissioner to the Five Tribes as may be necessary to identify herself as the daughter of said Susan S. Burton and as the "Fannie E Burton", appearing in the record in said case.

3. That she be granted such other and further relief as to your Honor may seem proper in the premises for a complete protection to her rights.

William C. Wright
ATTORNEY FOR PETITIONER.

A F F I D A V I T.

STATE OF MISSISSIPPI)
COUNTY OF *Amite*) ss.

By *Lawrence*
Mrs. Fannie E. Wiltshire, being personally well known to me, being first duly sworn upon oath deposes and says: She is the petitioner named in the foregoing and annexed petition and that she has read the same and knows the contents thereof and that the allegations therein contained are true, except as to those matters alleged upon information and belief, and as to those facts she believes as it to be true. Affiant makes this declaration in perfect good faith and not for the purpose of any delay and believes that she has a just claim and that she is fully entitled to the relief prayed for in said petition.

Fannie E. Wiltshire

Sworn and subscribed to before me this 9th day of June, 1906.

W. H. ...

Affidavit of service.

City of Washington,
SS.
District of Columbia

William W. Wright being first duly sworn upon oath deposes and says: He is the attorney for the petitioner, Fannie E. Wiltshire, named in the foregoing and annexed petition and that said petition is filed in good faith and not for any purposes of delay. Affiant served a true copy of said petition upon the Choctaw Nation by mailing the same, by registered mail, on June 14th, 1906, to Mansfield Mc.Murray & Cornish, attorneys for said Nation, addressed to them at So. Mc.Alester I. T., as appears from the official receipt of the postmaster at Washington D. C., hereto attached.

William W. Wright

Subscribed and sworn to before me this 14 day of June 1906.

J. A. Murray

Notary public D. C.

U. S. Registered Mail for Treasury
Special delivery to the world.
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delivery.
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and parcels by special messenger
throughout the country.
By letter and parcel delivered through a
U. S. post office, the sender, without request
and without charge, receives the addressee's
acknowledgment, and when delivered through
a post office of a foreign country, if the words
"Receipt Demanded" be indented on the ad-
dress side of the letter or parcel.

U. S. P. O. Registry Receipt

Letter 30687 P. O., Washington, D. C.

1906 JUN 14
Mansfield Mc Murray
Choctaw Nation
Postmaster, per *Boyle*

Before ~~the~~ Hon. Commission
to the Five Civilized Tribes.

In Re. Appuaturu &
Susan S. Benton et al
Miss. Choctaw. Appuaturu

Petition for review and
reconsideration, as an
original application
in above entitled
consolidated case.

FILED
JUN 18 1906
COMMISSION TO FIVE TRIBES.

Attest
Attorney for petitioners
Cherokee, etc.
Wash. etc.

IN RE APPLICATION SUSAN S. BURTON, ET AL, MISS. CHOCTAW APPLICANTS:

STATE OF MISSISSIPPI)

COUNTY OF Amite) Before me, the undersigned authority, on this day personally appeared Mrs. Fannie E. Wiltshire, of Smithdale, Mississippi, personally known to me, who being duly sworn deposes and says:

FIRST: That her maiden name was Fannie E. Burton, that she is 57 years of age, and that she is the Fannie E. Burton mentioned by Susan Cornelia Marshall on page 65 of the record in the Susan S. Burton case, and also mentioned on same page as having been married to Stephen F. Wiltshire, and that the said Susan S. Burton is her mother, and at the time said testimony was given, she was then married to the said Stephen F. Wiltshire, mentioned by the said Susan Cornelia Marshall.

SECOND: That John Ezra Burton, Laura K. Burton, Mary E. Burton, Henry D. Burton, Hardy C. Burton, Cornelia S. Burton, Lillie M. Burton, and Geo. W. Burton are all brothers and sisters, as the case may be, of affiant, and that they are all children of the said Susan S. Burton.

THIRD: That she is the affiant in the foregoing affidavit and she has read the same and knows the contents thereof, and that the allegations contained therein are true except as to those things alleged to be of record in the Susan S. Burton case, and such allegations, upon information and belief, she believes to be true as therein stated.

Fannie E. Wiltshire
AFFIANT.

Subscribed and sworn to by the said Fannie E. Wiltshire before the undersigned authority on this the 28 day of June, A. D. 1906.

W. H. Nett Clerk
NOTARY PUBLIC IN AND FOR Amite
COUNTY, MISSISSIPPI.

Seal-

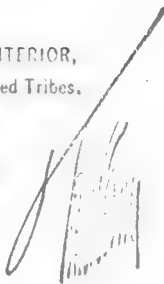
In re application
Susan L. Burton, et al,
Miss. Choctaw Applicants.

Affidavit of
Fannie E. Wiltshire
----- " -----

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.

FILED

JUL -6 1906



Commissioner

R. A. HEFNER, LAWYER,
SEARON

DEPARTMENT OF THE INTERIOR (COPY)
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. March 12, 1906.

Land.
18824-1904.
18046-1906.

The Honorable,
The Secretary of the Interior.

Sir:

The Office is in receipt of Departmental letter of February 23 (I.T.D.1921-1906), enclosing a communication to the Assistant Attorney General for the Interior Department, dated February 12, 1906, from C. C. McCarty, submitting certain papers in behalf of George W. Morrison and family, claimants as Mississippi Cheestaws.

The Department requests the Office, in connection therewith, to examine the record in the case of Susan S. Burton, et al., the subject of Departmental letters of November 24, 1903, and March 4, 1904, particularly as to whether any application was made for the identification of George (Georgia) W. Burton, the wife of George W. Morrison, as alleged in two affidavits submitted.

An examination of the records in the Mississippi Cheestaw case of Susan S. Burton, et al., has been made in reference to the inquiry of the Department. The affidavit of Georgia W. Morrison, the daughter of Susan S. Burton, contains

the statement, "She (Susan S. Burton) gave the names of her children at the time she made application for enrollment, except those whose names were already enrolled, including applicant."

There is nothing in the record in the Susan S. Burton case to support this contention except that on page 2 of the record, which contains a part of the examination of Susan S. Burton, the following appears:

- Q. The application you are making is simply for yourself?
A. Yes, I want to identify my children.

The name of this daughter was not given by Mrs. Burton in connection with her examination. The affidavits and papers submitted by Mr. McCarty and the original record in the Susan S. Burton case are enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

MR-Y.

7442
M C R ~~2000~~

Muskogee, Indian Territory, June 29, 1906.

Fannie E. Wiltshire,
Smithdale, Mississippi.

Dear Madam:

There is enclosed herewith copy of an order of the
Commissioner to the Five Civilized Tribes dated June 29, 1906,
consolidating the petitions for identification as Mississippi
Choctaws of

Georgia W. Morrison, et al.,
Laura E. McPhail, et al.,
Lillie Margaret Fountain,
Mary E. Dees, et al.,
Fannie E. Wiltshire,

and setting a hearing upon said petitions to be had at the office
of the Commissioner to the Five Civilized Tribes at Muskogee,
Indian Territory, Friday, July 6, 1906, at nine o'clock A. M.

Respectfully,

Commissioner.

McM 29/2

Registered.

M C R 7442

COPY.

Muskogee, Indian Territory, August 8, 1906.

Fannie E. Wiltshire,

Smithdale, Mississippi.

Dear Madam:

You are hereby notified that on August 6, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that you should be identified as a Mississippi Choctaw under the provisions of article 14 of the treaty of 1830.

Respectfully,

SIGNED



Acting Commissioner.

Registered.

)COPY(

Land.
8768-1902.
79373-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

GAW

September 26, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the letter of August 10, 1906, of the Commissioner to the Five Civilized Tribes, with which he returns the record in the consolidated Mississippi Choctaw case of Susan S. Burton et al., with particular reference to the right of George, or Georgia, W. Morrison to be identified as a Mississippi Choctaw. This case was remanded by the Department to the Commissioner to the Five Civilized Tribes on March 20, 1906 (I.T.D. 1596-1902; 4226-1903). It was held by the Department at that time that prior to March 25, 1903, application was attempted to be made but was refused on behalf of Georgia W. Morrison for her identification as a Mississippi Choctaw, and that she should now be permitted to submit proof of her right to be so identified.

This was based on matters appearing in the record as follows

Q. (Addressed to Susan S. Burton): The application you are making is simply for yourself?

A. Yes sir, I want to identify my children.

The Commissioner in his report recommends the identification of George W. Morrison, Laura K. McPhail, Mary E. Dees, Lillie M. Fountain, Fannie E. Wiltshire and Sallie D. Ward, they being the daughters of Susan S. Burton. Each of these women is the mother of a number of children. The Commissioner holds that no application was made within the time prescribed by law for the identification of the children.

I do not believe that the holding of the Department is susceptible of such a narrow construction and do believe that the Department intended that all descendants of Susan S. Burton, in behalf of whom she attempted to appear in the original case should be held to have been applied for within the time prescribed by law. I cannot therefore recommend the approval of the decision of the Commissioner as to the children of these women, the grand-children of Susan S. Burton, but do recommend that his decision in favor of the daughters of Susan S. Burton be approved.

A brief filed in this office on the 12th instant by W. W. Wright of this city, is also enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

MM-Y.

6R.

DEPARTMENT OF THE INTERIOR, ILL.

I.T.D.1896-1908.

WASHINGTON.

October 22, 1906.

4226-1908.

18908-1908.

7842 "

JG.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 10, 1906, you transmitted the consolidated applications for identification as Mississippi Choctaws of George W. Morrison et al., Laura E. McPhail et al., Lillie Margaret Fountain, Mary E. Dees et al., Fannie E. Wiltshire, and Sallie D. Marx et al., wherein on August 6, 1906, you held that the records show that George W. Morrison, Laura E. McPhail, Lillie Margaret Fountain, Mary E. Dees, and Fannie E. Wiltshire are the daughters of Susan S. Burton, an identified and enrolled Mississippi Choctaw; that Sallie D. Marx is the grand daughter of the said Susan S. Burton; that application for the identification of the above-named applicants as Mississippi Choctaws was made prior to March 22, 1903, and within the time limited by the provisions of the act of Congress approved July 1, 1902 (32 Stat., 641), and that the above-named applicants are entitled to identification as Mississippi Choctaws under the provisions of article 14 of the treaty of September 27, 1830.

The records further show that the Commission to the Five Civilized Tribes was apprised prior to March 22, 1903, of the

fact that applicants George W. Morrison, Laura K. McPhail, and Mary E. Dees were the married daughters of Susan S. Hurten, and as mothers of children were the heads of families of Choctaw Indians, which served to advise the Commission of the existence of such a family of Indians, and under the decision of the Department of August 5, 1905 (I.T.D.8840), in the case of Isaac Leflore, it was the duty of the Commission to pursue that inquiry further to ascertain the names of said children in order to determine their rights. This information brought to the attention of the Commission within the time prescribed by section 41 of the act of July 1, 1902, "served to advise it of the existence" of each family, and "was in every respect, fully and completely the legal equivalent of an application made in due time" for the children of the married applicants identified as Mississippi Choctaws, whether said children be named in the application or not. The Commission was specially charged with the duty of instituting a full investigation as to the rights of all the members of said family of Choctaw Indians, and in this case the party applying for the absent Mississippi Choctaws was refused permission to disclose the names of her children and her children's children, for the reason that the Commission was then under the impression that each adult applying for identification as a Mississippi Choctaw would be required to make a personal applica-

tion for identification as such, but the regulation requiring personal application on the part of applicants was expressly waived as to Mississippi Choctaws who applied for identification by departmental letter of October 19, 1900 (I.T.D. 3432).

The Department is of opinion that the record satisfactorily shows that application for the enrollment of the children of the above-named identified Mississippi Choctaws was made within the time required by the act of July 1, 1902 (32 Stats. 641), and that the adult children of the above-named identified Mississippi Choctaws are entitled to be so identified, and you are directed to identify them as such.

Inasmuch as you have not passed upon the rights of the minor children of the above-identified Mississippi Choctaws, awaiting departmental action on the application of their mothers, and as their rights are held in abeyance to be determined under section 2 of the Act of April 26, 1906 (34 Stat., 137), as amended by the act of Congress approved June 21, 1906 (34 Stat., 322-324), you are directed to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Morrison, Laura K. McPhail, Mary E. Dees, and Sallie D. Marx, as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the Treaty of September 27, 1830.

Your decision refusing to identify John F. Morrison and Lucy C. Burten, as intermarried Mississippi Choctaws is hereby affirmed, in accordance with departmental letter of July 30, 1903, in the case of Samuel B. Gee et al., wherein it was held that "as intermarried persons, wives or husbands of persons entitled to be identified, are not provided for in the strict terms of the agreement, their identification thereunder is not warranted".

The Commissioner of Indian Affairs reporting thereon September 26, 1906, recommended that both the children and grandchildren of Susan S. Burten be identified as Mississippi Choctaws. A copy of his letter is inclosed.

The consolidated records, including the record in the Susan S. Burten case, have this day been returned for the files of the Indian Office.

Respectfully,

(Signed) E. A. WITCHCOCK,
Secretary.

Through the Commissioner
of Indian Affairs.

15 inclosures.

(COPY)

BAW

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Land.
96960-1906.

WASHINGTON. November 14, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Office has received your letter of the 2nd instant, addressed to the Secretary of the Interior concerning the application for the identification of George W. Morrison, et al., as Mississippi Choctaws, and the action of the Department of October 22, 1906, in directing that you proceed with the identification of both the adult and minor children of George W. Morrison, Laura K. McPhail, Mary E. Dees and Sallie D. Marx.

You say that no copy of Office letter of September 26, 1906, addressed to the Department in this case was furnished you, and you ask for a copy thereof. After forwarding your letter to the Department the Office has had a copy made of the letter mentioned, and it is enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

SEE-Y.

MCR 7442

Muskogee, Indian Territory, December 3, 1906.

Fannie E. Wiltshire,
Smithdale, Mississippi.

Dear Madam :--

You are hereby notified that you may designate in person or by petition to the Choctaw land office at Atoka, or the Chickasaw land office at Ardmore, Indian Territory, the lands which you desire to select as your prospective allotments, pending the approval of your identification as a Mississippi Choctaw by the Secretary of the Interior.

It is suggested that you remove to and make settlement within the Choctaw-Chickasaw country of Indian Territory as early as practicable.

Respectfully,

Acting Commissioner.

M. C. R. - 7442

Muskogee, Indian Territory, January 7, 1907

Fannie K. Wiltshire,

Smithdale, Mississippi.

Dear Madam:--

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved the schedule of duly identified Mississippi Choctaws upon which your name appears opposite Number 2507.

The Act of Congress approved July 1, 1902, (32 Stats., 641) provides-

"All persons duly identified by the Commission to the Five Civilized Tribes under the provision of Section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under Article 14 of the Treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provision herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

M.C.R.-7442---2

Under the above provision of law it is necessary for you to remove to and establish a bona fide residence within the Choctaw-Chickasaw country, Indian Territory, prior to June 26, 1907.

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for you to secure the benefits accruing to your identification as a Mississippi Choctaw and your enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes and your enrollment as a Mississippi Choctaw approved by the Secretary of the Interior prior to March 4, 1907. The short time within which this procedure can be accomplished makes it obligatory upon you to establish your residence within the Choctaw-Chickasaw country and submit proof thereof to the Commissioner to the Five Civilized Tribes with the least possible delay.

It is earnestly suggested that the compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted either to the Choctaw Land Office at Atoka, Indian Territory, or the Chickasaw Land Office at Ardmore, Indian Territory, not

M.C.R.-7442--3

20,
later than January 27, 1907.

This latter date is suggested for the reason that the ministerial duty of securing the approval of your enrollment as a Mississippi Choctaw by the Secretary of the Interior prior to March 4, 1907, will not permit of delaying this matter later than that date.

Respectfully,

Commissioner.

Choctaw MCR 7443

Sallie V. Marks (Marx)

See MCR 7438

MCR 7443

S T A T E M E N T

of

I. R. Mason.

-----oOo-----

On July 6, 1906, there was hearing before the Commissioner to the Five Civilized Tribes for the enrollment of Susan S. Burton's children, grand-children and great-grand-children as Mississippi Choctaws, under the provision of the Dancing Rabbit Treaty of 1830; Messrs. Parker & Hefner appearing as attorneys at that hearing. Either at that time or at some prior time it had developed that Sallie V. Marx and her children, five in number, were descendants of Susan S. Burton, and entitled to enrollment. On July 12, 1906, subsequent to hearing of July 6, 1906, Parker & Hefner from Beaumont, Texas, wrote a letter to Sallie V. Marx, at Fernwood, Mississippi, setting forth that it would be absolutely necessary for her to execute power of attorney and contracts with them, and enclosing such papers as were necessary for them to sign and acknowledge before a Notary Public, authorizing them to press their claim for citizenship before the Commissioner of the Department. On July 18, 1906, relying upon the statement of Parker & Hefner as to the necessity of their employment, such contracts and power of attorneys was executed and returned to them.

Parker & Hefner now sue to enforce payment from the children of Sallie V. Marx and herself under the terms of the contract. The information now desired is as to the actual status that Sallie V. Marx and her children as established by the hearing of July 6, 1906, prior to the time of the execution of the contract of employment with Parker & Hefner as attorneys, it being contended by Sallie V. Marx for herself and children that at the time of the execution of the contract to Parker & Hefner she and her children, through Susan S. Purton, had already fully and completely established their citizenship, and that the contract given Parker & Hefner under date of July 18, was secured by Parker & Hefner after their services were indeed and in fact of no value to Sallie V. Marx and family, and that said contract was therefore obtained by a misrepresentation of the facts and status of Sallie V. Marx and family.

(CFK)

7438
M C R 2222

Muskogee, Indian Territory, June 6, 1906.

Manfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Friday, July 6th, 1906, at nine o'clock A. M., hear the testimony of such witnesses as may be presented in support of the alleged rights of Mrs. George W. Morrison, et al. to be identified as Mississippi Choctaws.

Copy of Departmental letter in this matter, dated March 20, 1906, is herewith enclosed for your information.

Respectfully,

Commissioner.

Registered

McM 6/3

M C R 7443

COPY.

Muskogee, Indian Territory, August 8, 1906.

Sallie V. Marx,

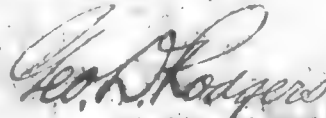
Fernwood, Mississippi.

Dear Madam:

You are hereby notified that on August 6, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that you should be identified as a Mississippi Choctaw under the provisions of article 14 of the treaty of 1830, and refusing to receive or consider the application for the identification of your minor children, Moses, Miriam, Philip Aaron, Susan Burton and Baby Marx, as Mississippi Choctaws, under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641). The rights of said children under the Act of April 26, 1906, are not passed upon in said decision.

Respectfully,

SIGNED



Acting Commissioner.

Registered.

MCR 7443

Muskogee, Indian Territory, December 3, 1906.

Sallie V. Marx,

Fernwood, Mississippi.

Dear Madam :--

You are hereby notified that you may in person or by petition designate to the Choctaw land office at Atoka, or the Chickasaw land office at Ardmore, Indian Territory, the lands which you desire to select as the prospective allotments for yourself and minor children, Moses, Miriam, Philip Aaron, Susan Burton and Ruby Marks, pending approval of your identification as Mississippi Choctaws by the Secretary of the Interior.

It is suggested that you remove to and settle within the Choctaw-Chickasaw country of the Indian Territory as early as practicable.

Respectfully,

Acting Commissioner.

85
M.C.R. 7439

Muskogee, Indian Territory, January 9, 1907.

Parker & Hefner,

Attorneys at law,
Beaumont, Texas.

Gentlemen:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved a schedule of duly identified Mississippi Choctaws containing the names of the following persons:

2484 George W. Morrison.
2485 ~~Sam~~ E. Morrison.
2486 Anna May Morrison.
2487 Henry B. Morrison.
2488 Laura E. McPhail.
2489 Frank McPhail.
2490 Myra McPhail.
2491 Fannie McPhail.
2492 Grace McPhail.
2493 Gates McPhail.
2494 Preston McPhail.
2495 Virgil McPhail.
2496 Homer McPhail.
2497 Mary E. Dees.
2498 Henry H. Dees.
2499 Mary E. Wood.
2500 George A. Dees.
2501 Walter T. Dees.
2502 Edgar R. Dees.
2503 Oscar E. Dees.
2504 Fannie E. Dees.
2505 Kattie Belle Dees.
2506 Lillie M. Fountain.
2507 Fannie E. Wiltshire.
2508 Sallie V. Marx.

2509 Moses Marx.
2510 Miriam Marx.
2511 Phillip Aaron Marx.

The Act of Congress approved July 1, 1902 (32 Stats., 641), provides -

"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

Under the provision of law above quoted, it is necessary for the persons named in the schedule to remove to, and establish a bona fide residence within, the Choctaw-Chickasaw country, Indian Territory, prior to June 26, 1907.

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for the persons hereinbefore named to secure the benefits accruing to their identification as Mississippi Choctaws and enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, Indian Territory, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes, and their enrollment as Mississippi Choctaws approved by the Secretary of the Interior prior to March 4, 1907. The limited time within which this procedure can be accomplished makes it obligatory upon said persons to establish their residence in the Choctaw-Chickasaw country and submit proof thereof to the Commissioner to the Five Civilized Tribes with the least possible delay.

It is earnestly suggested that compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted to either the Choctaw Land Office at Atoka, Indian Territory, or the Chickasaw Land Office at Ardmore, Indian Territory, not later than January ²⁰ 17, 1907.

This latter date is suggested for the reason that the ministerial duty of securing the approval of the enrollment of these persons as Mississippi Choctaws by the Secretary of the Interior

88

prior to March 4, 1907, will not permit of delaying this matter later than that date.

The schedule containing the names of the persons hereinbefore enumerated, was received at this office January 2, 1907, being transmitted with Departmental letter of December 26, 1906.

Respectfully,

James Ripley
Commissioner.

FRL

M.C.R. 7443.

Muskogee, Indian Territory, January 9, 1907.

Sallie V. Marx,
Fernwood, Mississippi.

Dear Madam:

You are hereby advised that on December 26, 1906, the Secretary of the Interior approved the schedule of duly identified Mississippi Choctaws containing your name and the names of your children, Moses, Miriam and Phillip Aaron Marx, and that said names appear upon the schedule referred to as follows:

2508 Sallie Marx
2509 Moses Marx
2510 Miriam Marx
2511 Phillip Aaron Marx.

The Act of Congress approved July 1, 1902 (32 Stats., 641) provides:

"All persons duly identified by the Commission to the Five Civilized Tribes under the provision of Section 21 of the Act of Congress approved June 23, 1898, (30 Stats., 495) as Mississippi Choctaws entitled to benefits under article 14 of the Treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time, within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provision herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

M. C. R.-7443--2

Under the above provision of law it is necessary for you and your children heretofore named to remove to and establish a bona fide residence within the Choctaw-Chickasaw country Indian Territory, prior to June 26, 1907.

Your attention is however invited to the following provision of the Act of Congress approved April 26, 1905 (34 Stats., 137)

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred Seven, (1907), and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for you and your children to secure the benefits accruing to your identification as Mississippi Choctaws and your enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes, and your enrollment as Mississippi Choctaws approved by the Secretary of the Interior prior to March 4, 1907. The short time within which this procedure can be accomplished makes it obligatory upon you to establish your residence within the Choctaw-Chickasaw country and submit proof thereof to the Commissioner to the Five Civilized Tribes with the least possible delay.

M.C.R.-7443----3

It is earnestly suggested that the compliance with the provision of law in reference to the removal and settlement be made at the earliest possible date, and that proof thereof be submitted either to the Choctaw land office at Atoka, Indian Territory, or the Chickasaw land office at Ardmore, Indian Territory, not later than January ^{20.}~~27~~, 1907

This later date is suggested for the reason that the ministerial duty of securing the approval of your enrollment as Mississippi Choctaws by the Secretary of the Interior prior to March 4, 1907, will not permit of delaying this matter later than that date.

Respectfully,

Commissioner.

94
SPECIAL.

Muskogee, Indian Territory, January 24, 1907.

Direct.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental letter of January 19, 1906 (I T D 645-1907), referring to me for immediate report, a communication from William W. Wright, attorney at law, Washington, D. C., dated January 14, 1907, complaining of the omission by this office to identify Tammie W. Dees and Herbert Dees, two minor children of Henry H. Dees, Willie W. Dees, youngest child of Mary E. Dees, Sammie D. Wood, son of Mary E. Wood, Susan Burton Marx and Effie Marx, minor children of Sallie D. Marx, all of whom were living on March 4, 1906, and for whom applications were made under the Act of Congress approved April 26, 1906, and who were included in the application in the consolidated Mississippi Choctaw case of George W. Morrison, et al.

Mr. Wright also enclosed a copy of my letter of January 9, 1907, advising him of the approval by the Secretary of the Interior on December 26, 1906, of a schedule of duly identified Mississippi Choctaws containing the names of a number of the applicants in the George W. Morrison case.

The Department makes reference to its instructions of October 22, 1906, relative to the George W. Morrison case as follows:

(2)

"Inasmuch as you have not passed upon the rights of the minor children of the above-identified Mississippi Choctaws awaiting departmental action on the application of their mothers, and as their rights are held in abeyance to be determined under section 2 of the act of April 26, 1906 (34 Stat., 137), as amended by the act of Congress approved June 21, 1906 (34 Stat., 328-334), you are directed to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Morrison, Laura E. McPhail, Mary E. Dees, and Sallie D. Marx, as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830."

I am requested to state whether any determination has been had of the rights of the minor applicants claimed to have been omitted from the schedule of identified Mississippi Choctaws approved by the Department December 26, 1906; whether I have identified said omitted minor applicants as Mississippi Choctaws, and if not, the reason therefor.

Reporting upon this matter permit me to call the Department's attention to my letter of December 1, 1906, transmitting a schedule of duly identified Mississippi Choctaws, numbered 2484 to 2511 inclusive, and to my separate letter of the same date referring to Departmental letter of October 22, 1906 (I T D 1596-1902, 4226-1905, 18908, 7240-1906), and in which I recommended that Departmental decision of October 22, 1906, be rescinded in so far as it directed the identification as Mississippi Choctaws of Frank W. Morrison, Fannie H. Morrison, Willie W. Dees, Tommie W. Dees, Herbert Dees, Sammie D. Wood, Susan Burton Marx and Ruby Marx.

96
(3)

I also suggested in my letter of December 1, 1906, that the question of enrollment of the minor children above referred to, born subsequent to December 19, 1901, under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), would receive consideration and their applications be disposed of as applications for the enrollment of minor children of duly enrolled Mississippi Choctaws in the event that their parents removed to and established a residence within the Choctaw-Chickasaw country, and were duly enrolled as Mississippi Choctaws in conformity with the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641).

I return Mr. Wright's letter of January 14, 1907, with the enclosure therewith transmitted.

Respectfully,

Tams Bipby
Commissioner.

McK 24/1

DEPARTMENT OF THE INTERIOR, LB
 WASHINGTON.

I.T.D. 7240-1906.
 14761- "
 18988- "
 1764-1907.
 1888- "

February 21, 1907.

Direct.

Commissioner to the Five Civilized Tribes,
 Muskogee, Indian Territory.

Sir:

December 1, 1906, you reported and recommended that departmental decision of October 23, 1906 (I.T.D.7240), directing you "to proceed in accordance with this decision to identify both the adult and minor children named in your decision of August 6, 1906, as the children of George W. Harrison, Laura K. McPhail, Mary E. Dees, and Sallie D. Marx as Mississippi Choctaws entitled to enrollment under the provisions of article 14 of the treaty of September 27, 1830," be amended by omitting the names of Frank W. Harrison, Fannie H. Harrison, Willie U. Dees, Tammie U. Dees, Herbert Dees, Summie D. Wood, Susan Burton Marx, and Ruby Marx, directed to be identified in accordance therewith.

January 24, 1907, you reported specially as to the exclusion of the above minor children from the schedule of duly identified Mississippi Choctaws containing the names of a number of the applicants in the George W. Harrison case.

In view of the approved opinion of the Assistant Attorney-General for this Department dated February 16, 1907 (I.T.D.7240),

in the Mississippi Choctaw case of Nicholas Charles (or Charles) et al., for identification as Mississippi Choctaws, copy of which opinion has this day been forwarded to you in said case, which provides, "A third child, James, was born to these parents subsequent to the original application made by the father of the family. He is entitled to identification, however, under section 2 of the act of April 26, 1906 (34 Stat., 137), which provides in part as follows:

That for ninety days after approval hereof applications shall be received for enrollment of children who were miners living March fourth, nineteen hundred and six, whose parents have been enrolled as members of the Choctaw, Chickasaw, Cherokee, or Creek tribes, or have applications for enrollment pending at the approval hereof,

and this is true whether his claim depends upon the application of his father or his mother," (in which case James Charles was born subsequent to the original application, made May 11, 1901, of his father), the Department declines to rescind its action of October 22, 1906, directing you, in accordance with opinion of that date, to identify both the adult and minor children named in your decision of August 6, 1906, as Mississippi Choctaws, including the minor children above named, to wit, Frank W. Morrison, Rennie E. Morrison, Willie W. Dees, Tammie W. Dees, Herbert Dees, Sammie E. Wood, Susan Burton Marx, and Edgy Marx.

The Department adheres to its decision of October 22, 1906, in the Mississippi Choctaw case of George W. Morrison et al., and you are directed to proceed to enroll the applicants named

-3-

therein in accordance therewith.

You are requested to advise applicants and their resident attorneys of this action. The Indian Office will advise legal counsel.

The papers in the case and a carbon copy hereof have been sent to the Indian Office.⁴

Respectfully,

THOS. RYAN

First Assistant Secretary.

21 inc. to Ind. Of.

~~A. V. B.~~
~~F. H. B.~~

Schedules containing names of foregoing
persons have been heretofore forwarded

Dept.

BIRTH AFFIDAVIT

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

ENROLLMENT OF MINORS ACT OF CONGRESS APPROVED APRIL 26, 1906.

IN RE APPLICATION FOR ENROLLMENT, AS a citizen of the Choctaw Nation as Mississippi Choctaw of Moses Marx, a male child, born on the 20th day of February in the year 1897; Miriam Marx, a female child, born on the 13 day of the month of June in the year 1894; Phillip Aaron Marx, a male child, born on the 9 day of the month of August in the year 1900; Susan Burton Marx, a female child, born on the 14 day of the month of July in the year 1902; and Ruby Marx, a female child, born on the 19 day of the month of April in the year 1905, all being children of Walter Marx, a citizen of the State of Mississippi, and also children of his present wife, Sallie V. Marx, she being the daughter of John Ezra Burton, deceased, who was enrolled as a citizen of the Choctaw nation, and the said Mrs. Sallie V. Marx being also a grand daughter of Susan S. Burton, who is enrolled as a Mississippi Choctaw. The Post Office address of Walter Marx and his wife Sallie V. Marx and their minor children is Fernwood, Mississippi.

AFFIDAVIT OF MOTHER.

The State of Mississippi)
County of Pike) I, Sallie V. Marx, on oath state that I am 34 years of age, and am the daughter of John Ezra Burton, deceased, who was, prior to the time of his death, enrolled as a citizen of the Choctaw nation, that I am also the grand-daughter of Susan S. Burton, who is now living in Durant, Indian Territory, and who is enrolled as a Mississippi Choctaw, that I am the only daughter and the only child John Ezra Burton left surviving him, and in the year 1901 there was living no other daughter, or child, of John Ezra Burton, deceased, and I am the identical person referred to by my grand mother Susan S. Burton in her testimony given on hearing of her application

page seven of her testimony as the surviving daughter of John Ezra Burton, then deceased, who was the son of said Susan S. Burton, and upon information and belief and advice of counsel, I further state that the testimony of Mrs. Susan S. Burton, my grand-mother, in regard to myself as shown by the records of the Commission to the Five Civilized Tribes in the files relating to The Application of Susan S. Burton, et al, Mississippi Choctaw Applicants, and especially page seven of the testimony of Susan S. Burton, given in 1901, as contained in said records will be construed as, and constitutes an application at said date of such testimony for my enrollment as a Mississippi Choctaw, and that my application so made has never been disposed of and is still pending before the Department of the Interior and before the Commission to the Five Civilized Tribes, and my application was so pending and undisposed of on April 26, 1906.

I further state that I am the lawful wife of Walter Marx, who is a resident of Fernwood, Mississippi, that a male child was born to me on to-wit: the 24 day of the month of February in the year of 1897, which said child has been named Moses Marx; that a female child was born to me on the 13 day of the month of June in the year 1898, which said child has been named Miriam Marx; that a male child was born to me on the 9 day of the month of August in the year 1900, which said child has been named Phillip Aaron Marx; that a female child was born to me on the 14 day of the month of July in the year 1902, which said child has been named Susan Burton Marx, and that a fifth child, a female, was born to me on the 19 day of the month of April in the year of 1905, which said child has been named Ruby Marx.

That all of said children are now living and were living on to-wit: March 4th, 1906, all of said children being also the children of Walter Marx, my present husband, to whom I was married on the 5 day of the month of April in the year of 1896.

WITNESSE:
Mrs E C Edmiston

Sallie W Marx

Subscribed and sworn to before me this the 15 day of July A. D. 1906.



AFFIDAVIT OF WALTER MARX.

STATE OF MISSISSIPPI)
COUNTY OF Pike) I, Walter Marx, a white man and citizen of the
State of **Mississippi**, County of Pike, on oath state that I am
the husband of **Sallie B. Marx**, formerly **Sallie Burton**, whose name is
subscribed to the foregoing affidavit, and I further state that all
matters and things set out in said affidavit in regard to the names
and ages of her children, same also being my children, and their re-
lationship are true and correct as therein stated.

Walter Marx

WITNESSES:

Mrs E C Edmister

Subscribed and sworn to before me this the 14th day of
July, A. D. 1906.

W. H. [Signature]
NOTARY PUBLIC IN AND FOR MISSISSIPPI
COUNTY, MISSISSIPPI.

7443

In Re
Application of
Susan S. Burton et al
Miss. Choctaws,

Application for Enrollment
of Minors

Moses Marx et al as
citizens of the
Choctaw Nation

JUL 23 1906

OSWALD'S PARKER.
LAWYER
BEAUMONT, TEXAS.

Choctaw MCR 7444

Lucy J. Burton

MCR 7444

N O R 3466

COPY.

Mustogee, Indian Territory, August 8, 1906.

Lucy J. Burted,

Durant, Indian Territory.

Dear Madam:

You are hereby notified that on August 6, 1906, the commissioner to the Five Civilized Tribes rendered a decision refusing the application for your identification as a Mississippi Choctaw by intermarriage.

Respectfully,

SIGNED



Acting Commissioner.

Registered.

M O R 7444

Muskogee, Indian Territory, December 5, 1906.

Lucy J. Burton,
Durant, Indian Territory.

Dear Madam:

You are hereby notified that the Secretary of the Interior, on October 22, 1906, affirmed the decision of the Commissioner to the Five Civilized Tribes of August 6, 1906, refusing to identify you as a Mississippi Choctaw by intermarriage.

Respectfully,

Acting Commissioner.

US 2711
Commis. of the

IS 1111



Commis. of the

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
Conral, District

In Re-Application of Lucey J. Burton,
For Citizenship by Intermarriage,

In Application for citizenship by Henry D. Burton, states the following facts:

That he is a citizen of the Choctaw Nation by blood,

That he was married to Henry D. Burton, a citizen by blood of the Choctaw Nation
at Garland, Texas, I. T., on the 19- day of November, 1899

That he ~~is~~ is duly enrolled as a Mississippi Choctaw citizen by blood, with enroll-
ment number 1958.

That his father's name is Henry D. Burton, age 64 years, and
his mother's name is Susan S. Burton, age 77 years.

That his brothers and sisters are named Susan, Cornelia, Marshall, other
following facts mentioned below.

respectively.

That my marriage to Henry D. Burton, is recorded in clerk's office of Dallas Co.,
Court at Dallas, Texas, County Court House,

That the decree of the Court recognizing ^{his} citizenship by blood is recorded in the Clerk's office of
Muskogee, Court, at Muskogee, I. T.

That his father's name is Henry D. Burton, and his age 24 and
his mother's name before marriage to father was Susan S. Grand and her age is
24, years. Before marriage to each other.

That his brothers and sisters are named John E. Burton, Fannie E. Wilkner, Laura
Ar McPhail, Mary E. Dees, respectively
and reside as follows: S. Cornelia Marshall, Lillie Fountain, Georgia Wiehler Mor-
risson, and lived in Mississippi, Texas, and the Indian Territory.

That his children's names are Austin G. Burton, Susan O.; Florence A.; and
Jewell A. Burton., and their
ages are respectively 18-12-11, and 8.

That I have lived with Henry D. Burton as a true and lawful wife
and the children here mentioned are our children, and the facts here men-
tioned are true and correct.

Subscribed and sworn to before me this the

Lucey J. Burton
5th day of July, 1905.
P. M. Hainsky
Notary Public,
District 96.

Choctaw MCR 7445

Emma Patterson

MCR 7445

Department of the Interior.
Commission to the Five Civilized Tribes.
Muskegee, Indian Territory, April 15, 1902.

.....
: In the matter of the application :
: of Emma Patterson for enrollment :
: as a citizen of the Choctaw Nation. :
:.....

D-624.

On the 5th day of March, 1902, the applicant was notified by registered mail, and on the 5th day of March, 1902, the attorneys for the Choctaw and Chickasaw Nations were also notified by registered mail that the application of Emma Patterson for enrollment as a citizen of the Choctaw Nation would be taken up by the Commission to the Five Civilized Tribes at its office in Muskegee, Indian Territory, on the 15th day of April, 1902, for final consideration.

Now on this 15th day of April, 1902, this cause coming on to be heard, pursuant to said notice, the Choctaw Nation failed to appear, and the applicant being called, failed to appear, either in person or by attorney.

.....
Hal Balford, being first duly sworn, upon his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above entitled cause on April 15, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes in said cause on the said day of April, 1902.

Subscribed and sworn to before me this 15 day of April, 1902.

Hal Balford
Clara Mitchell Wood

Notary Public.

Commission to the Five Civilized Tribes,
Alikehi, Indian Territory.

In the matter of the application of Emma Patterson for enrollment as a citizen by blood of the Choctaw Nation. Being sworn and examined by Commissioner McKennon, she testifies as follows:

- Q You said that your parents were here when you were a child?
A Yes sir.
- Q You were born in the Indian Territory? A
A No sir, I was born in Arkansas.
- Q What County? A Columbia Co., Arkansas.
- Q You remember having lived in the Territory?
A No sir, I was small; my mother died when I was small.
- Q You don't know then whether your parents ever lived here, of your own knowledge?
A No sir, not of my recollection.
- Q You have been living then in Arkansas all of your life, so far as you know, until about a year and a half ago?
A Yes sir.
- Q You married while in Texas? A Yes sir.
- Q When? A In 1892.
- Q What is your husband's name? A W. M. Patterson.
- Q How long did you live in Texas? A A year.
- Q Then went back to Arkansas? A Yes sir.
- Q And a year and a half ago your husband and you moved to this Territory? A Yes sir.
- Q You placed your business then in the hands of Mr. Solomon J. Hamert? A Yes sir.
- Q Is there anything more than you have stated? A No sir. Nothing more, only just my grandparents' names.
- Q Wasn't that John Peabworth drew money for you?

(Emma Patterson, #2)

A Yes sir.

Q With you? I mean from the Choctaw nation?

A Yes sir. It must have been about ten years ago.

Q You know how much he drew? Just for you?

A Seventy dollars.

Q You got the money? A Yes sir.

Q Is there any other statement you want to make about it?

A No sir.

Department of the Interior,

Commission to the Five Civilized Tribes.

I hereby certify, upon my official oath as
stenographer to above named Commission, that this
transcript is a true, full and correct translation of
my stenographic notes.

M. D. Green

Certified Copy.

7308.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., March 24, 1903.

In the matter of the application of William G. Jordan
for the identification of himself as a Mississippi Choctaw.
T. J. Cole Attorney.

William G. Jordan being duly sworn testifies as follows:
Examination by the Commission.

- Q What is your name? A William C. Jordan
Q What is your age? A Forty-two.
Q What is your postoffice address? A Bennington, Indian Territory.
Q How long have you lived there? A About four years.
Q Where were you born? A Arkansas.
Q From there you went where? A Nation.
Q Have you lived wither in Arkansas or Indian Territory all your life? A No sir.
Q Where else? A In Texas.
Q How long did you live in Texas? A Ten or twelve years.
Q Lived six or seven years in the Indian Territory? A Yes sir.
Q Is your father living? A No sir.
Q Is your mother living? A No sir.
Q What was your father's name? A Samuel J. Jordan
Q What was your mother's name? A Caroline P. Jordan.
Q Do you claim through your father or mother? A Mother.
Q How much Choctaw blood do you claim? A One-fourth.
Q She was one-half? A Yes sir.
Q Has she ever been recognized or enrolled as a Choctaw Indian by the Choctaw tribal authorities or the authorities in Indian Territory? A Yes sir, she was enrolled.
Q Why were you not enrolled? A I don't know.
Q You didn't have your name put on any roll? A No sir.
Q Did you ever make application to the Dawes Commission in 1896? A Yes sir.
Q What was done with your application at that time? A Was recognized.
Q This is your first application since that time? A No sir.
Q When you tried to be enrolled in 1896 did you take an appeal? A Did not.
Q When did you make application? A Two years ago here.
Q As a Choctaw by blood? A Yes sir.
Q Were you refused then? A I guess we were both put on the doubtful list.
Q Did you make it under the name of William Jordan who made application for enrollment as a citizen of the Choctaw Nation by blood at Alikchi, Indian Territory? A Yes sir.
Q When was that application made? A Five years ago.
Q Well now do you want to have that application withdrawn and make application as a Mississippi Choctaw? A Yes sir.
The application of William G. Jordan, D.747, is referred to here, same is withdrawn.
Q Do you now come before the Commission to be identified as a Mississippi Choctaw? A Yes sir.
Q Do you claim under article fourteen? A Yes sir.

7308-2.

Article fourteen is as follows:

"Each Choctaw head of a family being desirous to remain and become a citizen of the states shall be permitted to do so by signifying his intention to the agent within six months from the ratification of this treaty and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child which is living with him over ten years of age, and a quarter section to each child as may be under ten years of age to adjoin the location of the parent; if they reside upon said lands intending to become citizens of the states for five years after the ratification of this treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family or a portion of it; persons who claim under this article shall not lose the privilege of a Choctaw citizen but if they ever remove are not to be entitled to any portion of the Choctaw annuity."

Q What is the name of the ancestor through whom you claim?

A Patsy Pebworth.

Q What relation was she to you? A Grandmother.

Q Was she your mother's mother? A Yes sir.

Q Your mother was Caroline Phelps and married Jordan? A Yes sir.

Q How much Choctaw blood did Patsy Pebworth have? A I don't know.

Q Did she live in Mississippi or Alabama in 1830? A Lived in there about.

Q Which? A In Alabama.

Q Did she have a family living with her then? A Yes sir.

Q How old was she? A I don't know.

Q You don't know how old she would be if living now? A No sir.

Q Did she or any Choctaw ancestor of yours live on land in the old Choctaw Nation for five years and then get a patent for that land? A I think so.

Q Do you know? A Yes sir.

Q Did she get a patent for land which she held for five years in the old Choctaw Nation? A I have heard that they did.

Q Do you know? A Yes sir, I know it.

Q Do you know where that patent is? A No sir.

Q Did you ever see it? A No sir.

Q Did you ever see anybody who did see it? A Yes sir, my uncles.

Q Can you give the name of anyone who saw it? A Mary Clever.

Q You don't know anything only what has been told you about it?

A No sir.

Q Did any of your Choctaw ancestors go before Samuel Ward within six months and register or attempt to register under article fourteen? A I don't know.

Q How did any of your Choctaw ancestors claim any land in the old Choctaw Nation under article fourteen of the treaty of 1830? A Yes sir.

Q Patsy Pebworth? A Yes sir.

Q Any other? A I suppose so.

Q Who did? A John Pebworth.

Q I mean your ancestors? A Henry Pebworth had land there.

Q Did any of your Choctaw ancestors go from the old Choctaw Nation east of the Mississippi River to the Choctaw Nation, Indian Territory with the other Indians between the years 1833, 1835 or 1840? A Yes sir.

Q How come? A My mother and grandmother.

Q When? A Between 1831 and 1835.

7308-3.

Q Who told you so? A They did.

Q Where did Patsy Peabworth die? A In Arkansas I reckon.

Q Then she never went to Indian Territory after she went to Arkansas, did she? A I don't know where she died.

Q Did any of your Choctaw ancestors go from the old Choctaw Nation east of the Mississippi River to the Choctaw Nation Indian Territory at any time between the ratification of the treaty of 1830 and the date of this application made by you today? A Yes sir.

Q Who did? A My mother and aunts.

Q When did your mother come from Mississippi or Alabama to the Choctaw Nation, Indian Territory? A I don't know the date.

Q Don't you know whether your mother did or not? A Yes sir, I know she did.

Q When did she come to the Choctaw Nation, Indian Territory?

A I don't know the date.

Q Did she die in the Indian Territory? A No sir.

Q Where did she die? A Arkansas.

Q Well then she came to the territory and went to Arkansas?

A Yes sir.

Q Did any of your Choctaw ancestors go before a Commission in 1837 or a commission in 1842 and claim any benefit under article fourteen of the treaty of 1830? A I don't know.

These commissions were appointed one in 1837 by an act of congress approved March 3rd of that year and the other by an act approved August 23, 1842, to hear Indians who had tried to register under article fourteen of the treaty of 1830 within six months after it was ratified but had been refused the right to register and their lands were afterwards taken from them and sold by the government.

Q Did any of your Choctaw ancestors receive any scrip from the government which entitled them to select land in Mississippi Alabama, Louisiana or Arkansas? A I don't know.

This scrip was issued under the act of Congress approved August 23, 1842

Q Do you speak or understand the Choctaw language? A No sir.

This applicant will be allowed thirty days time from this date in which to introduce other proof in this case.

Q What relation are you to Vassie Peabworth? A Second cousin.

Q She has been before this Commission to be identified as a Mississippi Choctaw? A I think so.

Q Do you want to have your case considered under her application? A Yes sir.

The case of Vassie Peabworth M.C.R. 6144 is here referred to for the purpose of consolidation.

This applicant has the appearance and physical characteristics of being descended from white parentage, brown hair, red dish mustache, ruddy complexion, blue eyes; he has no knowledge of the Choctaw language and no knowledge of a compliance as

7308-4

the part of his ancestors with the provisions of article fourteen.

Chas. Diffendaffer being duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings in the above entitled cause taken at Muskogee, Indian Territory, March 24, 1903, and that the foregoing is a full, true and correct transcript of his stenographic notes taken in said cause on said date.

(Signed) Chas. Diffendaffer.

Subscribed and sworn to before me this 13 day of May, 1903.

(Signed) Charles H. Sawyer.
Notary Public.

SEAL

I, Frances R. Lane, a stenographer to the Commissioner to the Five Civilized Tribes, do hereby certify that the above and foregoing is a true and accurate copy of the testimony taken at Muskogee, Indian Territory, March 25, 1903, in the Mississippi Choctaw Citizenship case of William G. Jordan No. 7308.

Frances R. Lane
Subscribed and sworn to before me this November 16, 1905.

Myron White
Notary Public.

Certified Copy.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., March 25, 1903.

7421.

In the matter of the application of William M. Patterson for the identification of his three minor children, Deroth A., Shelby A. and Howell M. Patterson, as Mississippi Choctaws.

T. J. Cole, attorney for applicant.

William M. Patterson being duly sworn testified as follows:

Examination by the Commission:

- Q What is your name? A William M. Patterson.
Q How old are you? A Forty years old.
Q What is your postoffice address? A Bokchito, I. T.
Q How long have you lived in the Indian Territory? A Moved here in '97.
Q Where did you live before that? A Arkansas.
Q How long did you live in Arkansas? A Born and raised there.
Q Lived there continuously until you came to the Indian Territory? A Yes sir.
Q What is your object in appearing before the Commission at this time? A In behalf of my children.
Q What are the names of your children for whom you wish to apply? A Deroth A? Patterson.
Q How old is Deroth? A Nine years old.
Q What is the name of the next one? A Shelby A.
Q How old is Shelby? A Six years old.
Q What is the name of the next? A Howell M.
Q How old is Howell? A Three years old.
Q Any others? A No sir.
Q This application is for your three minor children? A Yes sir.
Q What is the name of the mother of these children? A Emma Patterson.
Q Is she living? A Yes sir.
Q What is the name of the father of these children? A William M. Patterson.
Q You are the father of these children? A Yes sir.
Q You claim no Choctaw blood yourself? A No sir.
Q The children claim their Choctaw blood through their mother? A Yes sir.
Q What is the reason that the mother does not appear at this time to make application for them? A She is sick and unable to come.
Q How much Choctaw blood do you claim for these children? A Their mother claims one-fourth. I have never figured it out for the children.
Q If the mother claimed a fourth and you are a white man you would claim one-eighth for the children wouldn't you? A Yes sir.
Q One-half of what their mother has? A Yes sir.
Q What is the postoffice address of these children? A Bokchito Indian Territory.

Q Has the mother of these children through whom you claim the right for them as Mississippi Choctaws ever been recognized in any manner or enrolled as a member of the Choctaw tribe of Indians by the Choctaw tribal authorities or the authorities of the United States? A Why, we appeared before the Choctaw Commission in '97 at Red Oak and they never did state to me whether they enrolled her or not; they said they would enroll her.

Q Was any application ever made for enrollment to this Commission? A At Sulphur Springs, or Alikohi in '96.

The name of the mother of these children appears on the records of the Commission on Choctaw Roll, Card No. D 624.

Q When and where were you married to Emma Patterson? A In Texas in '91 Spring.

Q Were you married under a license? A Yes sir.

Q Have you the marriage license and certificate with you at this time? A No sir, I havn't got it.

Q Is the name of any of these minor children for whom you make application to be found upon the tribal rolls of the Choctaw Nation in Indian Territory? A I suppose not; the Commission turned the children down.

Q Did you or anyone for you ever make application to the Choctaw tribal authorities in the Indian Territory for the enrollment of these children as citizens of the Choctaw Nation? A They did in '97 the Fall.

Q What was done with that application? A I don't know sir.

Q Did you or anyone for you in the year 1896 make application to this Commission for citizenship in the Choctaw Nation for these three minor children under the Act of Congress approved August 23, 1842? A No sir, not before.

Q With the exception of that application which you say was made in 1897 to the Choctaw Commission has any application been made to the Choctaw tribal authorities or the authorities of the United States for citizenship or enrollment in the Choctaw Nation for these children? A This Spring two years ago my wife received a letter to come here and enroll her minor children and she come right here to this place and shortly after she returned from here she got a letter that she was turned down.

Q When did you say your wife came here? A Two years ago this spring.

Q Do you appear before the Commission at this time for the purpose of claiming rights in the Choctaw lands in Indian Territory for your three minor children under the provisions of article fourteen of the treaty of 1830? A Yes sir.

Article fourteen of the treaty of 1830 reads as follows:

"Each Choctaw head of a family being desirous to remain and become a citizen of the States shall be permitted to do so by signifying his intention to the agent within six months from the ratification of this treaty and he or she shall thereupon be entitled to reservation of one section of six hundred and forty acres of land to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child which is living with him over ten years of age and a quarter section to such child as may be under ten years of age, to adjoin the location of the parent. If they reside upon said lands intending to become citizens of the states for five years after the ratification of this treaty in that

case a grant in fee simple shall issue. Said reservation shall include the present improvements of the head of the family or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen but if they ever remove shall not be entitled to any portion of the Choctaw annuity.

- Q Is this the provisions of law under which you are claiming for these minor children the right to identification as Mississippi Choctaws? A Yes sir.
- Q Do you understand that article? A Yes sir.
- Q What is the name of the Choctaw ancestor through whom you claim the right for these children to be identified as Mississippi Choctaws? A My wife's grandfather was Henry Pebworth and her grandmother was Patsy Pebworth.
- Q Through which one of her parents does your wife claim her Choctaw blood? A Through her mother.
- Q What is her mother's name? A Caroline Jourdan.
- Q What is her husband's name? A Samuel Jourdan.
- Q Through which of her parents-- A Her mother.
- Q Her father, Samuel Jourdan was a white man and claimed no Choctaw blood? A He was a white man.
- Q Through which of her parents did Caroline Jourdan claim her Choctaw blood? A Her mother, Patsy Pebworth.
- Q What was Patsy Pebworth's husband's name? A Henry.
- Q Then did Caroline Jourdan claim through her father or her mother? A Through her mother, Patsy.
- Q Henry Pebworth was a white man, was he? A Yes sir.
- Q Claimed no Choctaw blood? A No sir.
- Q Through which parent did Patsy Pebworth claim her Choctaw blood? A I don't know sir.
- Q Do you know how much Choctaw blood she had? A Full blood
- Q How old is your wife at this time? A Thirty years old.
- Q Is her mother, Caroline Jourdan living? A No sir.
- Q Do you know how old she would be if living now? A No sir.
- Q Patsy Pebworth then, is the great grandmother of these children? A
- Q Did any of the Choctaw ancestors of these children ever comply or attempt to comply with the provisions of article fourteen of the treaty of 1830? A I don't know sir.
- Q Were any of the Choctaw ancestors of these children living in the old Choctaw Nation in Mississippi and Alabama in 1830 when this treaty was made? A Yes sir.
- Q Which one of these children's ancestors were living there at that time? A Their great grandmother, Patsy Pebworth and probably their grandmother too I don't know for certain.
- Q Was Patsy Pebworth married and the head of the family in 1830 when the treaty was made? A I don't know sir.
- Q Was she a recognized member of the Choctaw tribe of Indians at that time? A Yes sir.
- Q How do you know? A From what my wife has told me and what her family has told me; that's all.
- Q It is a matter of family history? A That's all.
- Q Did any of your children's Choctaw ancestors own an improvement upon what constituted the old Choctaw Nation in Mississippi and Alabama? A I don't know sir.
- Q Did any of the Choctaw ancestors of these children remove from the old Choctaw Nation in Mississippi and Alabama to the present Choctaw Nation in Indian Territory at the time of

7421-4.

the removal of the greater portion of the Choctaw tribe of Indians between the years of 1833 and 1838? A All I can tell you is what my wife told me; she told me they did.

Q Did she tell you that her ancestor, Patay Pebworth removed to the Indian Territory between 1833 and 1838? A I don't know as she designated the years.

Q That is what I asked you. A I can't tell you; she said she moved from there when the Choctaws did.

Q Did any of the Choctaw ancestors of these children within six months after the ratification of the treaty of Dancing Rabbit Creek signify to the agent of the Government in Mississippi their intention to remain in Mississippi, take land there and become citizens of the States? As is provided under article fourteen of the treaty of 1830? A I don't know sir.

Q Did any of the Choctaw ancestors of these children ever claim or receive land in Mississippi from the Government of the United States under the provisions of article fourteen of the treaty of 1830? A I don't know that.

In accordance with the provisions of article fourteen of the treaty of 1830 the Government directed an agent in Mississippi to register the names of these Choctaws who might desire to remain in Mississippi, take land there and become citizens of the states. The records of the Government show that this agent failed to register and report to the Government the names of many Choctaws who really did signify their intention to remain in Mississippi and comply with this article of the treaty and on this account in many instances the land upon which Indians lived and had improvements and which they desired reserved for them under article fourteen of the treaty of 1830 was sold by the Government at Public Land Sale and the Choctaws deprived of their lands; this caused a great deal of complaint among the Choctaws and finally the matter was brought to the attention of Congress, and Congress by Acts passed in 1837 and 1842 created Commissions who went to Mississippi and heard a large number of claims under article fourteen of the treaty of 1830.

Q Did any of the Choctaw ancestors of these children appear before the Commission appointed in 1837 or before the Commission appointed in 1842 and endeavor to have their rights adjudicated under article fourteen of the treaty of 1830? A I don't know sir.

The Act of Congress approved August 23, 1842, provided that in case it should be finally determined that a Choctaw had complied with all the provisions of article fourteen of the treaty of 1830 but that his land had been taken and sold by the Government that he should be entitled to select land elsewhere in Mississippi or in Alabama, Arkansas or Louisiana, to be taken from vacant Government land and that certificates to that effect should be given him. These certificates were called scrip.

Q Did any of the ancestors of these children ever receive any such scrip from the Government of the United States under that Act of Congress? A I don't know.

Q So far as you know were any of the ancestors of these children ever recognized members of the Choctaw tribe of Indians? A No sir.

Q So far as you know did they ever receive any benefits as such?

7421-5.

A No sir, not that I know of.

Q Have you any witnesses which you desire to introduce?

A Yes sir, I would like Mr. Clover to be put on the stand.

(Attorney for applicant says he expects to put them on with some witnesses hereafter.)

Q Have you any documentary evidence to present at this time?

A No sir.

Q Do you desire time in which to present any additional testimony in support of this case? A Yes sir.

You will be allowed thirty days from this date in which to introduce proper evidence before this Commission in support of this application; no extension of this time will be allowed except upon motion duly filed with this Commission setting forth the cause for a continuance, the names of the witnesses and the matters to which they will testify.

Q Do any of these children speak or understand the Choctaw language? A No sir.

Q Have you any further statements you wish to make? A No sir.

Q Have any of the relatives of these children appeared before this Commission at any time and made application to be identified as Mississippi Choctaws? A Yes; Mr. W. G. Jourdan and W. M. Clover.

Q What relation is W. G. Jourdan to these children? A Uncle.

Q And W. M. Clover? A Second cousin.

Q What relation is Vassie Pebsworth to these children? A I don't know.

Reference is made to the case of Vassie V. Pebsworth M.C.R. 6461, for the purpose of consolidation.

Henry G. Haines being sworn on his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings above on March 25, 1903, and that this is a full, true and correct transcript of his stenographic notes in same.

(Signed) Henry G. Haines.

Subscribed and sworn to before me this 8 day of April, 1903.

(Signed) Charles H. Sawyer,
Notary Public.

I, Frances R. Lane, a stenographer to the Commission to the Five Civilized Tribes do hereby certify that the above and foregoing is a true and accurate copy of the testimony taken at Muskogee, Indian Territory, March 25, 1903 in the Mississippi Choctaw Citizenship case of Derath A. Patterson et al No. 7421.

Subscribed and sworn to before me this November 16, 1903.

Frances R. Lane
Myron White
Notary Public

C O P Y

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., March 25, 1903.

7421.

In the matter of the application of William M. Patterson for the identification of his three minor children, Doreth A., Shelby A. and Howell M. Patterson, as Mississippi Choctaws.

T. J. Cole, attorney for applicant.

William M. Patterson being duly sworn testified as follows:

Examination by the Commission:

- Q What is your name? A William M. Patterson.
Q How old are you? A Forty years old.
Q What is your post office address? A Bekchito, I. T.
Q How long have you lived in the Indian Territory? A Moved here in '97.
Q Where did you live before that? A Arkansas.
Q How long did you live in Arkansas? A Born and raised there.
Q Lived there continuously until you came to the Indian Territory?
A Yes sir.
Q What is your object in appearing before the Commission at this time? A In behalf of my children.
Q What are the names of your children for whom you wish to apply?
A Doreth A. Patterson.
Q How old is Doreth? A Nine years old.
Q What is the name of the next one? A Shelby A.
Q How old is Shelby? A Six years old.
Q What is the name of the next? A Howell M.
Q How old is Howell? A Three years old.
Q Any others? A No sir.
Q This application is for your three minor children? A Yes sir.
Q What is the name of the mother of these children? A Emma Patterson.
Q Is she living? A Yes sir.
Q What is the name of the father of these children? A William M. Patterson.
Q You are the father of these children? A Yes sir.
Q You claim no Choctaw blood yourself? A No sir.
Q The children claim their Choctaw blood through their mother?
A Yes sir.
Q What is the reason that the mother does not appear at this time to make application for them? A She is sick and unable to come.
Q How much Choctaw blood do you claim for these children?
A Their mother claims one-fourth. I have never figured it out for the children.
Q If the mother claimed a fourth and you are a white man you would claim one eighth for the children wouldn't you? A Yes sir.
Q One-half of what their mother has? A Yes sir.
Q What is the postoffice address of these children? A Bekchito, Indian Territory.

- Q Has the mother of these children through whom you claim the right for them as Mississippi Choctaws ever been recognized in any manner or enrolled as a member of the Choctaw tribe of Indians by the Choctaw tribal authorities or the authorities of the United States? A Why, we appeared before the Choctaw Commission in '97 at Red Oak and they never did state to me whether they enrolled her or not; they said they would enroll her.
- Q Was any application ever made for enrollment to this Commission?
A At Sulphur Springs, or Alikchi in '96.

The name of the mother of these children appears on the records of the Commission on Choctaw Roll, Card No. D 624.

- Q When and where were you married to Emma Patterson? A In Texas in '91 spring.
- Q Were you married under a license? A Yes sir.
- Q Have you the marriage license and certificate with you at this time? A No sir, I haven't got it.
- Q Is the name of any of these minor children for whom you make application to be found upon the tribal rolls of the Choctaw Nation in Indian Territory? A I suppose not; the Commission turned the children down.
- Q Did you or anyone for you ever make application to the Choctaw tribal authorities in the Indian Territory for the enrollment of these children as citizens of the Choctaw Nation? A They did in '97 the Fall.
- Q What was done with that application? A I don't know sir.
- Q Did you or any one for you in the year 1896 make application to this Commission for citizenship in the Choctaw Nation for these three minor children under the Act of Congress approved August 23, 1842? A No sir, not before.
- Q With the exception of that application which you say was made in 1897 to the Choctaw Commission has any application been made to the Choctaw tribal authorities or the authorities of the United States for citizenship or enrollment in the Choctaw Nation for these children? A This Spring two years ago my wife received a letter to come here and enroll her minor children and she come right here to this place and shortly after she returned from here she got a letter that she was turned down.
- Q When did you say your wife came here? A Two years ago this spring.
- Q Do you appear before the Commission at this time for the purpose of claiming rights in the Choctaw lands in Indian Territory for your three minor children under the provisions of article fourteen of the treaty of 1830? A Yes sir.

Article fourteen of the treaty of 1830 reads as follows:

"Each Choctaw head of a family being desirous to remain and become a citizen of the States shall be permitted to do so by signifying his intention to the agent within six months from the ratification of this treaty and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land to be bounded by sectional lines of survey; in like manner shall be entitled to one-half that quantity for each unmarried child which is living with him over ten years of age and a quarter section

to such child as may be under ten years of age, to adjoin the location of the parent. If they reside upon said lands intending to before citizens of the States for five years after the ratification of this treaty, in that case a grant in fee simple shall issue. Said reservation shall include the present improvement of the head of the family or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen but if they ever remove shall not be entitled to any portion of the Choctaw annuity."

- Q Is this provision of law under which you are claiming? for these minor children the right to identification as Mississippi Choctaws? A Yes sir.
- Q Do you understand that article? A Yes sir.
- Q What is the name of the Choctaw ancestor through whom you claim the right for these children to be identified as Mississippi Choctaws? A My wife's grandfather was Henry Pebworth and her grandmother was Patsy Pebworth.
- Q Through which one of her parents does your wife claim her Choctaw blood? A Through her mother.
- Q What is her mother's name? A Caroline Jourdan.
- Q What is her husband's name? A Samuel Jourdan.
- Q Through which of her parents-- A Her mother.
- Q Her father, Samuel Jourdan, was a white man and claimed no Choctaw blood? A He was a white man.
- Q Through which of her parents did Caroline Jourdan claim her Choctaw blood? A Her mother, Patsy Pebworth.
- Q What was Patsy Pebworth's husband's name? A Henry.
- Q Then did Caroline Jourdan claim through her father or her mother? A Through her mother, Patsy.
- Q Henry Pebworth was a white man, was he? A Yes sir.
- Q Claimed no Choctaw blood? A No sir.
- Q Through which parent did Patsy Pebworth claim her Choctaw blood? A I don't know sir.
- Q Do you know how much Choctaw blood she had? A Full blood.
- Q How old is your wife at this time? A Thirty years old.
- Q Is her mother, Caroline Jourdan, living? A No sir.
- Q Do you know how old she would be if living now? A No sir.
- Q Patsy Pebworth then, is the great grandmother of these children?
- Q Did any of the Choctaw ancestors of these children ever comply or attempt to comply with the provisions of article fourteen of the treaty of 1830? A I don't know sir.
- Q Were any of the Choctaw ancestors of these children living in the old Choctaw Nation in Mississippi and Alabama in 1830? when this treaty was made? A Yes sir.
- Q Which one of these children's ancestors were living there at that time? A Their great grandmother, Patsy Pebworth and probably their grandmother too I don't know for certain.
- Q Was Patsy Pebworth married and the head of the family in 1830 when the treaty was made? A I don't know sir.
- Q Was she a recognized member of the Choctaw tribe of Indians at that time? A Yes sir.
- Q How do you know? A From what my wife has told me and what her family has told me; that's all.
- Q It is a matter of family history? A That's all.
- Q Did any of your children's Choctaw ancestors own an improvement upon what constituted the old Choctaw Nation in Mississippi and Alabama? A I don't know sir.

- Q Did any of the Choctaw ancestors of these children remove from the old Choctaw Nation in Mississippi and Alabama to the present Choctaw Nation in Indian Territory at the time of the removal of the greater portion of the Choctaw tribe of Indians between the years of 1833 and 1838? A All I can tell you is what my wife told me; she told me they did.
- Q Did she tell you that her ancestor, Patsy Pebworth removed to the Indian Territory between 1833 and 1838? A I don't know as she designated the years.
- Q That is what I asked you? A I can't tell you; she said she moved from there when the Choctaws did.
- Q Did any of the Choctaw ancestors of these children within six months after the ratification of the treaty of Dancing Rabbit Creek signify to the agent of the government in Mississippi their intention to remain in Mississippi, take land there and become citizens of the States? As is provided under article fourteen of the treaty of 1830? A I don't know sir.
- Q Did any of the Choctaw ancestors of these children ever claim or receive land in Mississippi from the Government of the United States under the provisions of article fourteen of the treaty of 1830? A I don't know that.

In accordance with the provisions of article fourteen of the treaty of 1830 the Government directed an agent in Mississippi to register the names of those Choctaws who might desire to remain in Mississippi, take land there and become citizens of the States. The records of the Government show that this agent failed to register and report to the Government the names of many Choctaws who really did signify their intention to remain in Mississippi and comply with this article of the treaty and on this account in many instances the land upon which Indians lived and had improvements and which they desired reserved for them under article fourteen of the treaty of 1830 was sold by the Government at Public Land Sale and the Choctaws deprived of their lands; this caused a great deal of complaint among the Choctaws and finally the matter was brought to the attention of Congress and Congress by acts passed in 1837 and 1842 created Commissions who went to Mississippi and heard a large number of claims under article fourteen of the treaty of 1830.

- Q Did any of the Choctaw ancestors of these children appear before the Commission appointed in 1837 or before the Commission appointed in 1842 and endeavor to have their rights adjudicated under article fourteen of the treaty of 1830? A I don't know sir.

The Act of Congress approved August 23, 1842, provided that in case it should be finally determined that a Choctaw had complied with all the provisions of article fourteen of the treaty of 1830 but that his land had been taken and sold by the Government that he should be entitled to select land elsewhere in Mississippi or in Alabama, Arkansas or Louisiana, to be taken from vacant Government land and that certificates to that effect should be given him. These certificates were called scrip.

- Q Did any of the ancestors of these children ever receive any such scrip from the Government of the United States under that Act of Congress? A I don't know.
- Q So far as you know were any of the ancestors of these children ever recognized members of the Choctaw tribe of Indians? A No sir.
- Q So far as you know did they ever receive any benefits as such? A No sir, not that I know of.
- Q Have you any witnesses which you desire to introduce? A Yes sir, I would like Mr. Clover to be put on the stand.

(Attorney for applicant says he expects to put them on with some witnesses hereafter.)

- Q Have you any documentary evidence to present at this time? A No sir.
- Q Do you desire time in which to present any additional testimony in support of this case? A Yes sir.

You will be allowed thirty days from this date in which to introduce proper evidence before this Commission in support of this application; no extension of this time will be allowed except upon motion duly filed with this Commission setting forth the cause for a continuance, the names of the witnesses and the matters to which they will testify.

- Q Do any of these children speak or understand the Choctaw language? A No sir.
- Q Have you any further statements you wish to make? A No sir.
- Q Have any of the relatives of these children appeared before this Commission at any time and made application to be identified as Mississippi Choctaws? A Yes; Mr. W. G. Jourdan and W. M. Clover.
- Q What relation is W. G. Jourdan to these children? A I don't know.

Reference is made to the case of Vassie V. Pebsworth, M.C.R. 6481, for the purpose of consolidation.

Henry G. Hains being sworn on his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings above on March 25, 1903, and that this is a full, true and correct transcript of his stenographic notes in same.

(Signed) Henry G. Hains

Subscribed and sworn to before me this 8 day of April, 1903.

(Signed) Charles H. Sawyer.
Notary Public.

7-D-624.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Emma Patterson as a citizen by blood of the Choctaw Nation.

- - D E C I S I O N : - -

It appears from the census card record in this case that in May, 1899, Emma Patterson appeared before the Commission to the Five Civilized Tribes at Alikchi, Indian Territory, and made application for enrollment as a citizen by blood of the Choctaw Nation.

Inasmuch as it appears from the evidence herein, and from the records of the Commission to the Five Civilized Tribes, that said Emma Patterson is a full sister of William G. Jordan, an applicant for identification as a Mississippi Choctaw under the provisions of article fourteen of the Treaty of 1830, who, on October 27, 1903, was identified as such by the said Commission, and approved by the Secretary of the Interior on May 2, 1904, the rights of said applicant to identification as a Mississippi Choctaw will also be considered.

It further appears from the record herein that said applicant was born about the year 1873 and moved to the Choctaw Nation in 1897, and that she is the daughter of Caroline P. Jordan (or Jourdan), an one-half blood Choctaw Indian, and Samuel Jordan (or Jourdan), a non-citizen.

It does not appear from the evidence submitted in support of said application, or from the records in the possession of this office, that said applicant has ever been enrolled by the Choctaw tribal authorities as a member of the Choctaw tribe, or admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, or by the Commission to the Five Civilized Tribes, or by a decree of the United States Court in Indian Territory under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321).

I am therefore of the opinion that the application made for the enrollment of Emma Patterson as a citizen by blood of the Choctaw Nation should be denied under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that Emma Patterson should be identified as a Mississippi Choctaw entitled to rights in the Choctaw lands under the provisions of article fourteen of the Treaty of 1830, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

SEP 10 1906

I, J. J. Breasler, do hereby certify that I am a regular and duly licensed physician, residing in Wokohito, Indian Territory, and that I am the physician in charge of Mrs. Emma Patterson, a resident of Wokohito, in said Territory. That after an examination of said Mrs. Emma Patterson, I declare that she is sick and physically unable to leave her home at this time, and that she will be unable to leave her home by or on November 13th, 1908, or soon thereafterwards. That said Mrs. Emma Patterson is confined to her ^{room} ~~bed~~ by her sickness, and that for her to attempt to leave same and go to Muskogee would endanger her life.

Subscribed and sworn to before me, this 13 day of November, A. D. 1908.

J. J. Breasler M. D.
C. F. Brown

Notary Public in and for
Central District,
Indian Territory, U. S. A.

Muskogee, Indian Territory, March 5, 1901.

Mr. W. H. Patterson,

Bokchito, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 23rd of February, in which you desired to be informed relative to the rights of your wife as a citizen of the Choctaw Nation.

You stated in your letter that she appeared before the Commission at Sulphur Spring, Indian Territory, and that she was there informed that the Commission would let her know relative to her application. . You now desire that full information in regard to her application be furnished you.

The Commission has to inform you that it appears from our records that at Alikchi, Indian Territory, in May, 1899, Emma Patterson appeared before the Commission as an applicant for enrollment as a citizen by blood of the Choctaw Nation. The only record that the Commission has in this application is the testimony of Emma Patterson at the time of this personal appearance, which is as follows:

Commission to the Five Civilized Tribes,
Alikchi, Indian Territory.

In the matter of the application of Emma Patterson for enrollment as a citizen by blood of the Choctaw Nation. Being sworn and examined by Commissioner McKannon, she testified as follows:

Q You said that your parents were here when you were a child?
A Yes sir.

W.M.P.#2.

- Q You were born in the Indian Territory? A
A No sir, I was born in Arkansas.
Q What County? A Columbia Co., Arkansas.
Q You remember having lived in the Territory?
A No sir, I was small; my mother died when I was small.
Q You don't know then whether your parents ever lived here, of your own knowledge?
A No sir, not of my recollection.
Q You have been living then in Arkansas all of your life, so far as you know, until about a year and a half ago?
A Yes sir
Q You married while in Texas? A Yes sir.
Q When? A In 1892.
Q What is your husband's name? A W.M. Patterson.
Q How long did you live in Texas? A A Year.
Q Then went back to Arkansas? A Yes sir.
Q And a year and a half ago your husband and you moved to this Territory? A Yes sir.
Q You placed your business then in the hands of Mr. Solomon J. Homer? A Yes sir.
Q Is there anything more than you have stated? A No sir. No other more, only just my grandparents' names.
Q Wasn't that John Pebsworth drew money for you?
A Yes sir.
Q With you? I mean from the Choctaw Nation?
A Yes sir. It must have been about ten years ago.
Q You know how much he drew? Just for you?
A Seventy dollars.
Q You got the money? A Yes sir.
Q Is there any other statement you want to make about it?
A No sir.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.

I hereby certify, upon my official oath as stenographer to the above named Commission, that this transcript is a true, full and correct translation of my stenographic notes.

M. D. Green.

It does not appear from this testimony that she made application for anybody besides herself at that time. If your wife now desires to include the names for her three children in the application made by her, it will be well for her to appear in person before

W.M.P.#3.

the Commission for this purpose, as we cannot receive or consider any application on behalf of these children except upon the personal appearance of the citizen parents with whom they are living. Such an appearance can be made at the office of the Commission in Muskogee Indian Territory, at any time prior to the submission of the final rolls of the citizens of the Choctaw Nation to the Secretary of the Interior for his approval..

The Commission has not come to any decision relative to the rights of your wife for enrollment as a Choctaw citizen, and will be unable to take up this case for disposition for sometime.

In view of the desire of the Commission and of the Choctaw Nation to submit the final rolls of the citizens of the Choctaw Nation to the Secretary of the Interior for his approval at as early a date as possible, it is advisable, if Mrs. Patterson desires to make an application for the enrollment of her children, that she do so^{as} as soon as possible.

Yours truly,

Acting Chairman.

7-D-524.

COMMISSIONERS
HENRY L. DAWES
TAMM SIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AVLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING:

Choctaw D-684

Muskogee, Indian Territory, ~~March~~ 5, 1902

Emma Patterson,

Bokohito, Indian Territory.

You are hereby notified that the application of yourself

for enrollment as a citizen of the Choctaw Nation will be taken up for final consideration by the Commission to the Five Civilized Tribes, at its office in Muskogee, Indian Territory, on the 15th. day of April, 1902.

On said date you may, if you desire, appear before the Commission in person or by attorney when an opportunity will be given you to introduce any additional testimony affecting said application which you may think proper or necessary.

You are further notified that the representatives of the Choctaw Nation will also, at the same time, be afforded an opportunity to introduce testimony affecting YOUR right to enrollment, but said representatives will be required to notify you of their intention to introduce such testimony before they will be permitted to do so.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

Register.

Commissioner in Charge.

7-D-624.

Muskogee, Indian Territory, October 20, 1903.

Emma Patterson,

Bekohito, Indian Territory.

Dear Madam:

You are hereby notified that your application for enrollment as a citizen of the Choctaw Nation will be taken up for consideration by the Commission to the Five Civilized Tribes at its office at Muskogee, Indian Territory, on the 12th day of November, 1903, and it is advisable that you appear before the Commission in person, or by attorney, and introduce any additional testimony affecting said application which you may think proper or necessary.

You are further informed that the representatives of the Choctaw Nation will also, at the same time, be afforded an opportunity to introduce testimony affecting your right to enrollment.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Commissioner in Charge.

7-D-624.

Muskogee, Indian Territory, October 20, 1903.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby notified that the application of Emma Patterson for enrollment as a citizen of the Choctaw Nation will be taken up by the Commission to the Five Civilized Tribes, at its office in Muskogee, Indian Territory, on the 12th day of November, 1903, on which said date you will be given an opportunity to introduce any additional testimony affecting said application which you may think proper or necessary.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Commissioner in Charge.

Copy

South McAlester, Indian Territory, November 9, 1903.

The Commission to the Five Civilized Tribes,
Muskogee, Indian Territory,

Dear Sirs:

We were advised by your letter dated October 20, 1903, that on November 12, 1903, the Choctaw enrollment case of Emma Patterson, D-624, would be taken up by the Commission; and that we would be given an opportunity to introduce any additional testimony affecting said application which we might deem proper.

The purpose of this letter is to suggest that this applicant, Emma Patterson, sustains the same ancestry, family relationship and source of right as do the applicants in the Choctaw enrollment cases of Marshall A. Davis, et al., D-191, Burk Davis, et al., D-192 and Joe Davis, D-193.

There is now pending before the Honorable Secretary of the Interior a protest on behalf of the Choctaw and Chickasaw Nations to your action in enrolling the applicants above referred to; and, further more, they are included in our general application for the postponement of final decision in cases of like character until decisions are rendered by the Choctaw and Chickasaw citizenship court, in cases pending before it involving parallel questions of law and fact.

The Commission to the Five Civilized Tribes--2.

The purpose of this letter is to ack that no action be taken in the said Choctaw enrollment case of Emma Patterson, D-624, at this time, for the reasons stated.

Very respectfully,

MANSFIELD, McMURRAY & CORNISH.

Choctaw D-624.

Muskogee, Indian Territory, May 20, 1904.

T. J. Cole,
Attorney at Law,

Waxahachie, Texas.

Dear Sir:

Receipt is hereby acknowledged of your letter of May 10, in which you state that you are prepared to make proof that Emma Patterson is entitled to citizenship by blood in the Choctaw Nation, and would like to be afforded an opportunity at an early date to submit evidence of this character. You also ask to be informed the exact status of this case and call attention to the fact that a number of relatives of Mrs. Emma Patterson were identified as Mississippi Choctaws in the consolidated case of Matilda Clover et al, including Mrs. Patterson's own children. You further state that Emma Patterson is a granddaughter of Henry Pebworth and his wife, Patsy Pebworth, and that said Patsy Pebworth was a full-blood Choctaw Indian.

In reply to your letter, you are informed that Emma Patterson is an applicant to this Commission for enrollment as a citizen by blood of the Choctaw Nation, and it appears from our records that she is the daughter of Samuel J. and Caroline P. Jordan. It does

2. T.J.O.

not appear, however, that she has been recognized by the Choctaw tribal authorities as a citizen of the Choctaw Nation, nor is her name found on any of the tribal rolls of the Choctaw Nation in the possession of the Commission. Apparently, Emma Patterson would have been entitled to identification as a Mississippi Choctaw had she made application as such within the time prescribed by the Act of Congress approved July 1, 1902. It does not appear, however, from our records that she submitted an application to the Commission for identification as a Mississippi Choctaw, and under the provisions of the Act of Congress above referred to, the Commission is now without authority to receive or consider any original applications for identification as Mississippi Choctaws.

Respectfully,

Commissioner in Charge.

7-2-84

Mustoge, Indian Territory, August 17, 1905.

W. H. Patterson,

Delphita, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of August 14, 1905, asking why the decision is delayed in the citizenship case of Emma Patterson, and stating that she is a cousin of L. T. Davis and others, who have already been approved.

In reply to your letter you are advised that it appears from the records of this office that Emma Patterson is an applicant for enrollment as a citizen by blood of the Choctaw Nation, and that her name is not found upon any of the tribal rolls of the Choctaw Nation in the possession of this office, but when a decision has been reached relative to her right to enrollment as a citizen of the Choctaw Nation, you will be notified.

Respectfully,

Acting Commissioner.

7-2-084
M C R 7448

Copy

Muskogee, Indian Territory, September 10, 1906.

W. H. Patterson,

Doswell, Indian Territory.

Dear Sir:

There is enclosed herewith copy of the decision of the Commissioner to the Five Civilized Tribes of September 10, 1906, refusing the application for the enrollment of your deceased wife, Emma Patterson, as a citizen by blood of the Choctaw Nation, and ordering her identification as a Mississippi Choctaw under the provisions of the 14th article of the Choctaw treaty of 1830.

You are advised that the record in the matter of the application of Emma Patterson for enrollment as a citizen by blood of the Choctaw Nation, with the Commissioner's decision, has this date been transmitted to the Secretary of the Interior. You will be notified of such action as may be taken thereon by the Department.

Respectfully,

Enclosed copy.

MM 22

7-2-624
M O R 7445

Copy

Muskogee, Indian Territory, September 10, 1906.

Mansfield, Moyarray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

There is enclosed herewith copy of the decision of the Commissioner to the Five Civilized Tribes of September 10, 1906, refusing the application for the enrollment of Emma Patterson as a citizen by blood of the Choctaw Nation, and directing her identification as a Mississippi Choctaw under the provisions of the 14th article of the Choctaw treaty of 1830.

You are advised that the original record in the matter of the application for the enrollment of Emma Patterson as a citizen by blood of the Choctaw Nation, together with the Commissioner's decision, has this date been transmitted to the Secretary of the Interior for his review.

You will be notified of Departmental action in this case.

Respectfully,

Commissioner.

MM TO

Copy

Muskogee, Indian Territory, September 10, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the record in the matter of the application for the enrollment of Emma Patterson as a citizen by blood of the Choctaw Nation, with my decision of September 10, 1906, refusing said application but directing the identification of Emma Patterson as a Mississippi Choctaw under the provisions of article 14 of the Choctaw treaty of 1830, by reason of the fact that she appears from the records of this office to be a full sister of William G. Jordan who was identified by the Commission to the Five Civilized Tribes as a Mississippi Choctaw, October 27, 1903, and whose name appears opposite number 2007 upon a schedule of duly identified Mississippi Choctaws approved by the Secretary of the Interior May 8, 1904.

The applicant, Emma Patterson, appears from the records of this office to have died May 14, 1906.

It is respectfully requested that this case receive early consideration and action by the Department and that this office

(2)

be advised, in the event of the approval of the decision of the Commissioner, if a selection of allotment can be made in the name of the said Sam Patterson, under the provisions of the Act of Congress approved April 24, 1906 (Public No. 129), or June 21, 1906 (Public No. 206).

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

Wm. G.

(copy)

Land,
S0117-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

O.K.

October 3, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed record of the Commissioner to the Five Civilized Tribes in the matter of the application of Emma Patterson for her identification as a Mississippi Choctaw, and the application of William M. Patterson, her husband, for identification of his three minor children, Dorothy A., Shelby A. and Howell M. Patterson, as Mississippi Choctaws.

The Commissioner, in a decision dated September 10, 1906, finds that it appears from the census card record in his office that in May 1899 Emma Patterson appeared before the Commission to the Five Civilized Tribes at Alikahi, Indian Territory, and made application for enrollment as a citizen by blood of the Choctaw Nation, but that inasmuch as it appears from the evidence and from the records of the Commission that Emma Patterson is a full sister of William C. Jordan, an applicant for identification as a Mississippi Choctaw under the provisions of Article 14 of the treaty of 1830, who on October

27, 1903, was identified as such by the Commission and approved by the Department on May 2, 1904, the rights of the applicant to identification as a Mississippi Choctaw should also be considered.

He further found from the record that the applicant was born about the year 1873 and moved to the Choctaw Nation in 1897, she being the daughter of Caroline P. Jordan, a half-blood Choctaw Indian, and Samuel Jordan, a non-citizen, but that it does not appear from the evidence submitted in support of the application, nor from the records of his office, that the applicant has ever been enrolled by the Choctaw tribal authorities as a member of the Choctaw tribe or admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, or by the Commission to the Five Civilized Tribes, or by a decree of the United States Court in Indian Territory, under the provisions of the act of Congress approved June 10, 1894.

He was therefore of the opinion that the application made for the enrollment of Emma Patterson as a citizen by blood of the Choctaw Nation should be denied, under the provisions of the act of Congress approved June 26, 1896, and that she should be identified as a Mississippi Choctaw entitled to rights in the Choctaw lands under the provisions of article 14 of the treaty of 1830, and he so ordered.

The evidence in the case shows that Emma Patterson claims her right to identification as a Mississippi Choctaw on

her descent from Henry Febwerth who received a patent for land under the provisions of the 14th article of the Choctaw treaty of 1830, and his wife, Patsy Febwerth; that Henry Febwerth was a white man and his wife a full blood Indian. She claims her descent from these ancestors through Caroline Jordan, their daughter, who married Samuel Jordan, a white man, she being a daughter of Caroline Jordan. It was alleged by witnesses that Henry Febwerth owned land in the State of Alabama, which was acquired through his Choctaw citizenship, and that subsequently he with his family removed to the Choctaw Nation, Indian Territory, with other members of the tribe. The name of Mary Clever was also given as one of the daughters of Henry and Patsy Febwerth.

The records of this Office show that Henry Febwerth, a white man, was married to an Indian woman named Patsy, that he claimed land under the 14th article of the Choctaw treaty of 1830, his name appearing on Ward's Register as a white man having an Indian wife, and that he had at the date of the treaty, as members of his family resident with him, two children over and four under ten years of age. He filed on the following land in behalf of himself and his family: Section 27, fractional Section 28, the NE/4 and the E/2 of the NE/4 of Sec. 21, and the NW/4 of Section 18, all in Township 22 North, Range 17 West, Pickens County, Alabama.

His selection was afterwards approved by the Government. The records of this Office also show that Patsy Febwerth

removed to the Choctaw Nation West, arriving there on April 30, 1850, there being in her family two men, four women, four children under ten years of age, and one child over ten years of age, making a total of eleven persons, and that a party which emigrated under charge of Robert Febwerth arrived at the line of the Choctaw Nation on November 7, 1850, and included Robert Febwerth, the family of Mary Glover, consisting of one woman and one child, and the family of Caroline Jordan, consisting of one woman and two children under ten, there appearing on the schedule, under the head of "Remarks," following the names of the heads of families, "The son and daughters of Patsy Febwerth, who emigrated last spring." Copies of these schedules are enclosed.

It will be seen from this record that the claims made in behalf of Emma Patterson are substantiated by the papers on file in this Office. I therefore concur in the recommendation of the Commissioner that the identification of Emma Patterson as a Mississippi Choctaw be approved.

Neither in his decision nor letter of transmission does the Commissioner mention the children of Emma Patterson, and it must be assumed that he is not proposing to admit their cases under separate report. Application was made in their behalf within the time required by law, and I know of no reason why favorable action should not have been taken in their behalf at the same time their mother's case was disposed of.

- 2 -

I therefore recommend that the Commissioners be called on to report on their case at once, and that the report be returned in order that such action may be taken.

Very respectfully,

H. F. Larrabee,

Acting Commissioner.

W.H.Y.

G.R.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I. T. D. 19403-1906.

February 28, 1907.

LRB

Direct:

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with the view of Indian Office letter of October 3, 1906 (Land 80117), copy whereof is enclosed for your information, your decision of September 10, 1906, identifying Emma Patterson as a Mississippi Choctaw, is hereby affirmed, and you are further directed to identify her children, Doreth A. Patterson, Shelby A. Patterson, and Howell M. Patterson as Mississippi Choctaws, for whom application was made March 25, 1905, and prior to December 1, 1905.

You will notify applicants of this action.

The record in this case may be returned to the files of the Indian Office, together with a carbon copy hereof.

Respectfully,

James E. Wilson
Assistant Secretary.

1 inc. and 3 inc.
for Ind. Of.

LRB
1-28-07

MUR-7445

Muskogee, Indian Territory, March 18, 1907.

Mansfield, McMurray and Cernaish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:-

There is enclosed herewith copy of Departmental letter of February 28, 1907 (I T D 19498-1906), accompanied by the report of the Acting Commissioner of Indian Affairs of October 3, 1906 (Land 80117-1906), affirming the decision of the Commission to the Five Civilized Tribes of September 10, 1906, identifying Emma Patterson as a Mississippi Choctaw.

You are advised that the names of Dorothea A. Patterson, Shelby A. Patterson and Howell M. Patterson, referred to in Departmental letter of February 28, 1907, appear upon a schedule constituting a part of the final roll of Mississippi Choctaws, opposite Nos. 1214, 1215 and 1216, approved by the Secretary of the Interior January 13, 1906.

Respectfully,

W.H.
Encl. 12/1

Commissioner.

MCR-7445

Muskogee, Indian Territory, March 15, 1907.

W. M. Patterson,
Boswell, Indian Territory.

Dear Sir:-

There is enclosed herewith copy of Departmental letter of February 28, 1907, accompanied by the report of the Acting Commissioner of Indian Affairs of October 3, 1906, affirming the decision of the Commission to the Five Civilized Tribes of September 10, 1906, identifying Emma Patterson as a Mississippi Choctaw.

You are advised that the names of Doroth A. Patterson, Hazelby A. Patterson and Howell M. Patterson, referred to in Departmental letter of February 28, 1907, appear upon a schedule constituting a part of the final roll of Mississippi Choctaws, opposite Nos. 1814, 1815 and 1816, approved by the Secretary of the Interior January 13, 1908.

Respectfully,

W.M.
Encl. 12/3

Commissioner.

HCOR-7445

Muskogee, Indian Territory, March 18, 1907.

W. M. Patterson,
Boswell, Indian Territory.

Dear Sir:-

There is enclosed herewith copy of Departmental letter of February 28, 1907, accompanied by the report of the Acting Commissioner of Indian Affairs of October 3, 1906, affirming the decision of the Commission to the Five Civilized Tribes of September 10, 1906, identifying Emma Patterson as a Mississippi Choctaw.

You are advised that the names of Deroth A. Patterson, Shelby A. Patterson and Howell M. Patterson, referred to in Departmental letter of February 28, 1907, appear upon a schedule constituting a part of the final roll of Mississippi Choctaws, opposite Nos. 1214, 1215 and 1216, approved by the Secretary of the Interior January 12, 1906.

Respectfully,

WM.
Encl. 16/3

Commissioner.

MEM-7448

Muskogee, Indian Territory, March 18, 1907.

Mansfield, McMurray and Gernish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:-

There is enclosed herewith copy of Departmental letter of February 28, 1907 (I T D 19408-1906), accompanied by the report of the Acting Commissioner of Indian Affairs of October 3, 1906 (Land 49117-1906), affirming the decision of the Commission to the Five Civilized Tribes of September 10, 1906, identifying James Patterson as a Mississippi Choctaw.

You are advised that the names of Doroth A. Patterson, Shelby A. Patterson and Howell M. Patterson, referred to in Departmental letter of February 28, 1907, appear upon a schedule constituting a part of the final roll of Mississippi Choctaws, opposite Nos. 1814, 1815 and 1816, approved by the Secretary of the Interior January 15, 1908.

Respectfully,

W.M.
Encl. 18

Commissioner



FORM 2.

TELEGRAM

THE POSTAL TELEGRAPH-CABLE COMPANY OF TEXAS.

This Company transmits and delivers Messages subject to the terms and conditions printed on the back of this blank.

S. M. ENGLISH, GENERAL MANAGER.

COUNTER NUMBER.	TIME FILED.	CHECK.
	M.	Gov't Paid.

Send the following message, without repeating, subject to the terms and conditions printed on the back hereof, which are hereby agreed to.

Muskog e, I.T., March 9, 1907.

Chief Clerk,
Chickasaw Land Office,
Ardmore, Indian Territory.

Permit any person duly authorized to select allotment for Emma Patterson, deceased.

O. B. G. R.

BIXBY,
Commissioner.

The Postal Companies Reach all Important Points in the United States and British America, and via Commercial Cables, all the World.

Choctaw MCR 7446

Joseph Moncrief

MCR 7446

Department Of The Interior, Honorable Secretary of the Interior,
Washington District of Columbia.

Joseph Moncrief,

Plaintiff,

VS.

Choctaw & Chickasaw Nations,

Defendants.

Motion to rehear Case No-----

Petition for enrollment as a Mem-

ber of the Choctaw Tribe of In-

dians in the Indian Territory.

Comes now the Plaintiff in this case and Moves the Honorable Secretary of the Interior at Washington District of Columbia, to make and enter an order setting aside the Judgement heretofore rendered in the above entitled cause and direct the Honorable Commission to the Five Tribes, to take further testimony in support of his claim for citizenship as a member of the Choctaw Tribe of Indians in the Indian Territory, for the following reasons to-wit.

First, that he had no council representing him before the Honorable Commission to the Five Tribes, in said cause, he did not understand the matter as he should, that he thought that a petition he had made to the Choctaw Commission who were making the Roll of the Choctaws, commonly called the 1896 roll was all the application he would be required to make.

Second that he has discovered new and further evidence that if he be allowed to have heard will establish his claim substantially, that he did not understand how to present his claim to the Honorable Commission to the Five Tribes according to the rules governing evidence before said Commission. That he now can produce witnesses who can clearly establish his claim beyond any doubt to said Commission.

Third that he never was notified to appear with his witnesses before the Honorable Commission to the Five Tribes by said Commission, that he voluntarily appeared before said Commission at its office in Muskogee, and answered such questions as were propounded to him by the examining judge in the office at Muskogee, and that he did not suggest a single answer on his own motion, believing that he had no right to only answer such questions as were propounded to him, and he believes that the examination was unfair to him and prejudicial to his case, not that the judge was prejudiced against him but that the hearing did not develop all the facts in the case.

That he did not know and understand that he had to make a formal application to the Commission to the Five Tribes, which he possibly failed to do through ignorance.

Fourth, that he the plaintiff was taken away from the Choctaw Nation and all of his kin, by an older brother in the year 1866, and taken to the State of Georgia, and remained there for many years, and was finally detained by the State of Georgia and knew nothing of his kindred for years, he then returned to the Choctaw Nation in the year 1895, and appeared before the Choctaw Commission in 1896 when the commission were finally perfecting the 1896 rolls, and Simon E. Lewis told me he would place my name on the rolls, and I thought it had been done. All of this I can prove if given a chance to do so.

Fifth, that I herewith attach the Affidavit of two disinterested witnesses in support of my claim and made a part hereof and in support of this motion, for rehearing.

Plaintiff states that the judgement rendered by the Commission to the Five Tribes is not a just judgement in his case from the facts that they were not in possession of this new evidence lately dis-

(3)

covered in plaintiff's favor. Your Plaintiff prays that you grant this motion and remand the case back for a new hearing to enable him to establish his citizenship.

Joseph Moncrief

Subscribed and Sworn to before me this the 28th day of September 1905.

D. W. Hopkins

Notary Public.

(SEAL)

My Commission Expires 15 day of Dec. 1905.

Department of the Interior, United States Indian Service.

Muskogee, Indian Territory.

.....
Joseph Moncrief)

Plaintiff)

VS.)

Choctaw and Chickasaw Nations)
Defendants.)
.....

Motion to have rehearing in case
No.-----

In the matter of the above motion comes now Josiah Gardner, and after being duly sworn as the law directs, states and avers that he is a choctaw Indian by blood, and that his age is 57 years, that his Post Office is M'Alister I. T. That he is acquainted with the claimant Joseph Moncrief, and has known him for the past ten years, and I have known his relatives since 1872, and I knew his brother Charles Jones and Ben Jones, and have often heard them say that Charles Jones shortly after the civil war taken the claimant to the State of Georgia, and had left him there. Charley Jones told me that he had left his brother Joe the claimant in the State of Georgia but was going to send for him to come to the Nation, but he was shortly after this killed at M'Alister in the Choctaw Nation. I knew the claimant's brother George Moncrief, well who lived and died near Canadian in the Choctaw Nation, and have heard him often say that his younger brother Joe was back in the State of Georgia, that Charley had been involved in some trouble and had carried the claimant off to Georgia with him. George Moncrief died before the claimant returned to the Choctaw Nation.

I believe from having talked with the claimant and having talked with his relatives here that he is the identical Joseph Moncrief that Charley Jones had carried off to Georgia with him and that he

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is a Choctaw Indian and intitled to citizenship in the Choctaw Na-
tion.

Joe Gardner

Subscribe and sworn to before me this the 28th day of Sept. 1905.

E. W. Hopkins

(SEAL)

Notary Public

United States Indian Service, Commission to the Five Civilized Tribes.
Muskogee, Indian Territory.

Joseph Moncrief
Plaintiff.
VS.

The Choctaw and Chickasaw Nations. AFFIDAVIT IN EVIDENCE.
Defendants.

In the matter of the above intitaled case, comes now Annie Davis, whose after being duly sworn as the law directs states and avers as follows-to-wit. My name is Annie Davis, my age is 54 years, my Post Office is Savanna Ind. Territory. I am acquainted with the claimnat Joseph Moncrief he is a brother of mine I have known him all my life except a short time while he was in the State of Georgia. I was present at the tents where the enrollment was in progress at South McAlester in the fall of 1899, I was a witness in another case when my brother Joseph Moncrief entered the tent and took his place in the line and I was also present when he took his seat at the table in the tent. I only knew Simon E. Lewis one of the Commissioners who were there. I had a talk with Judge S. E. Lewis about my brothers Case the claimint in this Case, Judge Lewis seemed to think that my brother had been overlooked or something but said he would do all in his power to have the matter rectified. My brother Joseph Moncrief the claimant herein made formal application for enrollment at the tents between South M'Alested and M'Alester some time in September 1899 as well as I can now recollect, I believe my brother is intitaled to enrollment as much so as I myself was, and I have already filed onmy portion of the lands of the two Nations, I being an Indian by blood of the Choctaw Tribe.

(2)

I believe that if my brother the claimant herein has his claim properly set up to the Commission that he will be admitted to citizenship in the Choctaw Nation which he is justly intitled to.

her
Annie X Davis
mark

Subscribed and sworn to before me this the 9th day of Oct. 1905.

D.W. Hopkins

Notary Public.

(SEAL)

My Commis. Expires 15th day of Dec. 1905.

Witnesses to Mark: Wm. Arnolt. H. C. Green.

United States Indian Service, Honorable Secretary of the Interior.
Washington District of Columbia.

.....

Joseph Moncrief

Plaintiff,

VS.

Certificate of Service.

The Choctaw and Chickasaw Nations.
Defendants.

I J. B. Dowell a Dep U. S. Marshal for the South M'Alister Division of the United States Court for the Central District of the Indian Territory, do hereby certify that on the 29 day of Janu-ary 1906, at South M'Alister Indian Territory I served a copy of the within claim and exhibits herein by personally handing to G. Rosenwinkle agent of the firm of Mansfield M'Murray and Cornish, copy of the same.

J. B. Dowell

Dep. U. S. Marshall for said South M'Alister Division of the United States Court for the Central District of the Indian Territory.

J. B. Bacon
Notary Public.

(SEAL)

My Commission expires on the 27 day of January 1908.

We hereby accept service of same this the 29th day of January 1906.

Mansfield M'Murray and Cornish.

Service by U. S.
Marshal.

Attorneys for Choctaws & Chickasaws
By G. Rosenwinkle

Indorsed:

Department of the Interior,
Received Feb. 2, 1906.
Enc. No. 1 of No. 1381.
Indian Territory Division.

Department of the Interior,
Received Dec. 4, 1906.
Enc. No. 1 of No. 11407.
Indian Territory Division.

No. 11407. Motion for Re-hearing
in Case Joseph Moncrief Petitioner
for Citizenship, Plaintiff vs.
The Choctaw & Chickasaw Nations,
Defendants.

H. B. Deleman, Attorney for Chik-
asaw.
R. O. McAlister, U. S.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskegee, I. T., May 16th, 1906.

7-R-414

-----oOo-----

In the matter, of the application of Joseph Moncrief to be identified as a Mississippi Choctaw.

February 23, 1905 (I T D 1864), the Department affirmed the decision of the Commission to the Five Civilized Tribes of January 7, 1905, denying the application of Joseph Moncrief for his enrollment as a citizen by blood and for the enrollment of his wife, Lulu Moncrief, as a citizen by intermarriage of the Choctaw Nation.

February 2, 1906, a motion for rehearing was filed with the Department in this case, and on March 6, 1906 (I T D 1864-1905, 1381-1906, 3186-1906), the Department returned to this office the record in the case of Joseph Moncrief, et al., with instructions that the principal applicant be given an opportunity to submit testimony tending to show whether he is the descendant of a patentee under article 14 of the treaty of 1830.

In accordance with the above instructions, notice was, on April 28, 1906, furnished Joseph Moncrief, his attorneys of record, and the attorneys for the Choctaw and Chickasaw Nations, that a hearing in this matter would be had at the general office of the Commissioner to the Five Civilized Tribes on Wednesday, May 16th, 1906, at nine o'clock A. M.

Now on this 16th day of May, 1906, this cause coming on to be heard, the following appearances were entered and proceedings had:

APPEARANCES { Joseph Moncrief, applicant.
{ Sarah A. Harlan, Nancy A. Hill, and Annie
Davis, witnesses.
{ R. B. Coleman, attorney for applicant.
{ Choctaw and Chickasaw Nations not represented.

SARAH A. HARLAN being called as a witness and duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A Sarah A. Harlan.
Q How old are you? A Seventy-seven.
Q What is your post office address? A Hlooker, Indian Territory.
Q Are you acquainted with Joseph Monorief? A I am.
Q How long have you known him? A All his life.
Q Are you related to him in any way? A Half sister.
Q What is the name of his father? A Sampson Monorief.
Q What is the name of his mother? A Sophia Monorief.
Q Where was Joseph Monorief born? A Near Scullyville, or Oak Lodge. It's now called Oak Lodge. It's a mile from Spiro.
Q What was the blood of Sampson Monorief? A He was a white man.
Q What nationality? A French.
Q Full French? A Half breed.
Q What was the blood of Sophia Monorief? A Half breed.
Q Half breed what? A Choctaw.
Q Sampson was a white man wasn't he? A Yes sir.
Q What was Sophia Monorief's maiden name? A Sophia Brashears.
Q Where did Sampson Monorief and Sophia Monorief come from?
A The old Choctaw Nation in Mississippi.
Q In Mississippi? A Yes sir, and Alabama. They were from the old Choctaw Nation, Sumpter County, Alabama.
Q Near what place in Sumpter County did they come from?
A Belmont.
Q Belmont, Sumpter County, Alabama? A Yes sir. Demopolis too. Three miles each way from each post office.
Q Where were you born? A Sumpter County, Alabama.
Q Which one of Sampson Monorief and Sophia Brashears was your parent? A Sampson Monorief's first wife was my mother.
Q What was her name? A Sephia.
Q What was your mother's maiden name? A Sophia Brashears.
Q What relation were your mother and Joseph's mother? A Joseph's mother was a niece to my mother; my mother's niece.
Q Who was the mother of Joseph's mother? A Annie Brashears.
Q Who was Joseph Monorief's grandfather, maternal grandfather?
A Alex Brashears.
Q Did Alex Brashears possess Choctaw blood? A He possessed Choctaw and Creek.
Q How much Choctaw? A I think - I am not sure - I think he was a half breed. I am not sure.
Q How much Choctaw blood did Annie Brashears have? A Half breed.
Q When did you come to the Choctaw Nation? A In 1850.
Q When did your father Sampson Monorief come to the Choctaw Nation? A In '55 as well as my memory serves me. I have it on record.
Q What is the nature of that record? A Well, it's just a little kind of a diary of my own.
Q Have you that with you? A No sir, and I don't know where it is now.

By Mr. Coleman: If you will pardon me, I have it with me if you would like to see it. (Shows papers to Commissioner).

By the Commissioner: This is the Indian Office letter.

- Q At what place in the Choctaw Nation were you living when Sampson Monerief came to the Choctaw Nation? A Scullyville.
- Q Did your father come to that point also? A Near that point.
- Q What season of the year was it that he arrived there? A In the winter.
- Q Who came with him? A His family, consisting of negroes and one son.
- Q Was his wife, Sophia Brashears, with him? A No sir, she was dead.
- Q When did she die? A I think, as well as my memory serves me, '53.
- Q Died before his removal to the Choctaw Nation? A Yes sir.
- Q Where did she die? A Sumpter County, Alabama.
- Q How many children did Sampson Monerief have when he came to the Choctaw Nation in 1856? A He had nine.
- Q Nine children? A Yes sir.
- Q What were their names? A Susan, William, Mary Ann, Sarah A., Sampson, Sophia, George and Matthew. I think that's all.
- Q That's eight? A Did I give you a name Sophia there?
- Q Yes? A Did I give you a name Julia?
- Q No? A Well that's it; that makes the nine.
- Q Are these the only persons of white or Indian blood that came with him at that time? A He had a good many negroes.
- Q These are the only persons that came with him at that time that possessed white and Indian blood; the balance that came with him were negroes? A Yes. The others came prior to this time.
- Q When did Sampson Monerief die? A '57 I think. I am not sure.
- Q How many of these children that you have named are living at this time? A Two.
- Q Which ones? A Mrs. McCarty and myself.
- Q Now which one of these children would that be? Who is Mrs. McCarty? A She's Mary.
- Q Mary Ann? A Mary Ann. And Sarah A. Harlan myself.
- Q Mary Ann has been finally enrolled as a citizen by blood of the Choctaw Nation? A Yes sir.
- Q You have also? A Yes sir.
- Q Both of you received your allotments? A Yes sir.
- Q You came before your father did you not? A Yes sir.
- Q So you were not with his family when he arrived here in '56?
- A I was with them but not as an emigrant. I had been here and gone back.
- Q How many children actually came with him? A One.
- Q From Alabama? A Yes sir.
- Q Just one? A Yes sir.
- Q Which one was that? A Matthew.
- Q Who did you come out with? A My husband.
- Q Did your other brothers and sisters come at the time you did?
- A Yes, five came at that time, and the others came between that and '55. I arrived here in '50, and between '50 and '55 the others came, except that one Matthew.
- Q Did your father Sampson own any land in Mississippi or Sumpter County, Alabama? A Yes sir.
- Q Where was it located with reference to the towns of Demopolis and Belmont? A Well, it was west of Demopolis and east of Belmont, lying on the Bigby river.
- Q On the Tombigbee river? A Yes sir.
- Q How much land did Sampson Monerief have there? A Had a section.

- Q What kind of a looking man was your father Sampson Monerief?
A Black hair, blue eyes, rather fair; black hair, though, and blue eyes.
- Q What about his height? A I should judge he was about four feet and five inches.
- Q Very short man? A Short man, rather short, heavy set.
- Q What kind of a looking woman was your mother Sophia Brashears?
A Very tall and very dark; black eyes and black hair.
- Q Did she have any physical disabilities? A Not that I know of.
- Q Nothing that would mark her or distinguish her particularly?
A Oh no, nothing.
- Q You were born in 1829 were you not? A I suppose so.
- Q Of course you don't recollect the treaty of Dancing Rabbit Creek in 1830? A No, I don't recollect it.
- Q Is it a matter of family history that Sampson Monerief resided on that section that you have spoken of in 1830? A He resided -

- Q Were you born on that particular tract of land that he owned?
A Yes sir, born and raised right there.
- Q How long did you live there after your birth? A Well, I lived there until I was may be about twenty one. I was nineteen years old when I was married.
- Q And you continued to live with your father for two years afterward? A No sir, lived to myself.
- Q How many children did your father have at the time of your birth? A Four.
- Q What were their names? A Susan, William, Mary Ann, and Sarah Ann, myself.
- Q How much older was Susan than you? A Well, I couldn't tell you the number of years. I know she was over twelve at the Dancing Rabbit Treaty.
- Q Over twelve in 1830? A Yes sir.
- Q How much younger was William than Susan? A I think he must have been two or three years younger. He was under ten.
- Q How much older was Mary Ann than yourself? A Two years.
- Q When was Sampson born, that is, your brother? A Well, I don't know the date nor the year, but he was a good deal younger than I am.
- Q How many years older are you than he? A Well, I don't know because I haven't got the records.
- Q Well approximately? A Approximately, I guess about two and one half years.
- Q Born about '31 or '32? A I suppose so. You know I can't be positive about that without the records. Our records was lost.
- Q Which one of these children are the children of Sampson Monerief and Sophia Brashears your mother? A All.
- Q All of these children? A Yes sir, all.
- Q When did your mother die? A Died in '52 or '53. I don't know what year; '52 or '53.
- Q When did your father marry this second Sophia Brashears? A He married her perhaps in '55.
- Q Just before he came here? A After he came here, either in '54 or '55, one of the two. As I wasn't with him I didn't make no note of it or anything of the kind.
- Q Married her after he removed to the Cheateau Nation, Indian Territory? A Yes sir.

- Q Do you know the description of the land on which you were born?
A No, I do not.
- Q In reference to Sumpter County in what part of the County was this section of land located that was owned by your father Sampson Monorief? A I think the eastern part.
- Q North or South or Central? A North.
- Q Northeastern part of the County? A Northeast.
- Q How far from the Tombigbee river was it located? A About a mile of the river.
- Q Which direction? A Well, it would be on the west side of the river.
- Q How far was that land located from the public highway? A Right on the Military road.
- Q Did that road have any other designation than the Military road?
A Well, no. I was always taught and knew it as the Military road.
- Q What improvements were located on this land at your earliest recollection? A You have reference to buildings, etc.?
- Q Yes, and cultivated land and one thing and another? A Story and a half building, out houses and barns, nigger quarters, little houses all around, and about six or seven hundred acres in cultivation; that's as far back as I can recollect.
- Q Your father was a man well to do? A Yes sir.
- Q Was your father known by any Indian name? A No sir.
- Q Was your mother? A No sir, not that I ever knew.
- Q Was Joseph Monorief's mother known by any Indian name?
A Not that I ever heard of.
- Q Do you recollect the names of any of your neighbors that resided in Sumpter County? A Oh, yes.
- Q Name some of them? A Tut.
- Q What was the full name? A Viceroy Tut.
- Q What was he? A Farmer.
- Q White man or Indian? A White man.
- Q Do you remember the names of any Indians who resided in that vicinity? A Hall.
- Q What was the full name? A William Hall.
- Q Was he an Indian? A He was an Indian. And Tandy Walker he was an Indian.
- Q Is that the Tandy Walker that came to this county or the father of him? A The old man himself.
- Q Who lives in the Chickasaw Nation at this time? A No, been dead good many years. He's the back ancestor of all these Walkers. He was exgovernor of our nation at one time.
- Q In the old nation? A No sir, this nation here.
- Q Choctaw Nation, Indian Territory? A Yes sir.
- Q Is there anyone else that you recollect that resided there at that time? A Yes, Riddles/ they were Choctaw.
- Q What was the full name of the father? A Jackson Riddle.
- Q Recollect the names of anyone else? A No, I don't just now.
- Q Where did your father Sampson Monorief get this land?
A From the Dancing Rabbit treaty.
- Q Is it a matter of family history that he was present on that occasion? A Yes sir.
- Q Do you know where that treaty was drawn up, the treaty of 1830?
A No, I don't know where it was drawn up.
- Q Did you ever know of a provision in that treaty which provided that any Choctaw who desired to remain in the State of Mississippi could do so by signifying his intention to remain for

- five years and take land in the old Choctaw Nation in Mississippi and Alabama? A Yes sir.
- Q Did your father signify his intention to remain there and take his allotment? A Yes sir.
- Q In what way did he signify his intention? A By going on the land and improving it and raising his family.
- Q Did you ever hear of Colonel Ward, the Indian Agent in that country? A Colonel Ward?
- Q Yes? A Yes sir, I heard of him but never saw him.
- Q Do you know whether or not your father went to Colonel Ward and told him he desired to stay? A I do not.
- Q Do you know whether or not your father appeared before the commissions of '37 and '42 for the purpose of showing that he appeared before Colonel Ward and elected to remain in Mississippi and Alabama? A No, I don't know.
- Q Were you personally acquainted with Alex Brashears and Annie Brashears, the parents of Joseph Monerief's mother? A Yes sir.
- Q How far did they reside from your father's place? A About fifteen miles.
- Q In what county? A The same county.
- Q Same county? A Yes sir.
- Q What direction from your place? A Southeast as well as I can recollect, on the Sugarwood Creek.
- Q Near what town did Alex Brashears and his wife Annie Brashears reside? A I don't know of any town only Moscow, and that was just a little post office.
- Q How far was Moscow from the home of Alex Brashears? A Oh, I don't know, just a few miles.
- Q What direction? A Kind a southwest; I think it was southwest.
- Q When did Alex Brashears die? A I don't know.
- Q How old do you suppose he would be in 1830? A I suppose he would be a man twenty five or thirty years old, perhaps older. He was a man of a good large family.
- Q Did he have an improvement located in Sumpter County, Alabama? A Well, he had it but I don't think he lived on it.
- Q Did he live in town? A No, I think, as well as I recollect, he lived on his father-in-law's place.
- Q That is Annie Brashears' father? A Yes sir.
- Q Who was her father? A Zedek Brashears.
- Q How much Choctaw blood did he have? A None at all.
- Q White man? A Yes, Scotchman.
- Q Who was Annie Brashears' mother? A Susan Bond. That was her maiden name.
- Q Was she Choctaw? A Yes sir.
- Q How much? A Half bred.
- Q And Alex Brashears lived with Zedek Brashears did he? A Lived on his father-in-law's premises.
- Q Near what town? A Moscow postoffice. I was small then, fifteen or sixteen.
- Q Is it a matter of family history that Zedek Brashears and his wife Susan received land under the 14th article of the treaty of 1830? A I am not sure about that, but I guess they did.
- Q Do you know from whom they got their land? A Got it from the Dancing Rabbit treaty.
- Q How many children did Zedek Brashears and his wife have in 1830? A I don't know.

- Q Do you know the names of any of their children besides Annie?
A Annie was his wife.
- Q Annie was the daughter of Zedek and Susan? A Yes sir. Do I know any more of Zedek's children besides Annie? One named Elizabeth, one named Jesse, and Sophia, Turner, Vaughn. I believe that's all that I can give the names of.
- Q In comparison with your age, how much older was Elizabeth than yourself? A Well, I don't know. Those were my grandfather's children that you have got down there. They are Zedek Brashears children. You asked me how many children Zedek and Susan Brashears had.
- Q Well I want to get their ages? A Well, I couldn't tell you that. Sophia there is my mother and the others her sisters, and I don't pay much attention to their ages.
- Q When did your mother die? A Somewhere along about '51 or 2 or 3.
- Q About how old was she at the time of her death? A Fifty-five.
- Q Fifty-five in '52 or '53? A Yes sir.
- Q Was Jesse older than Sophia? A In that list, yes sir.
- Q How much older? A I couldn't tell you nothing about that. I know there's only one in that list younger than my mother.
- Q Which one was that? A Turner.
- Q Which one of these children is the oldest? A Is the oldest in that list?
- Q Yes? A Well, Jesse.
- Q And the next one is who? A Elizabeth.
- Q Then Vaughn? A No, I really don't know but I think Vaughn.
- Q Then your mother? A No, my mother comes last--way down.
- Q Where does Turner come? A Well let me see - there's Jesse and Elizabeth, Vaughn, Annie and Sophia and Turner; there's others, but I don't know.
- Q You don't know how old Turner was? A No sir.
- Q How many of these relatives in that list have you seen personally? A All that I have called.
- Q Is it a matter of family history that Turner ever went away to school some place in Florida or Georgia? A Went to Kentucky, to Johnson Institute in Kentucky.
- Q Johnson Institute in Kentucky? A I think so.
- Q Was one of these children killed? A I don't know of any being killed. I know the first one died with a paralytic stroke.
- Q Jesse? A Yes sir.
- Q Were any of these children that you have named younger than your mother? A Only the one, Turner.
- Q Have you ever heard what year your mother married Sampson Mencerick? A No sir.
- Q How old was your oldest sister at the time of her death, Susan?
A Well, I don't know. I couldn't tell you. She must have been forty.
- Q And when did she die? A Well, I don't know the year she died. I can't call it to mind. Of course I know then.
- Q How much difference is there between your age and hers?
A So much I couldn't tell.
- Q More than ten years? A Yes, there's all of ten, more than ten.
- Q Is there as much as ten years difference in your age and your brother William? A Yes, just about ten years between William and myself. I was the youngest of the four.

- Q Do you know from whom your father got his land that you have spoken of? A The Dancing Rabbit Treaty.
- Q Did he get a patent to this land? A Yes sir.
- Q Have you ever seen that patent? A Saw it but never read it.
- Q Did you open it up and look at it? A I looked at it with him holding it.
- Q Was it printed or written? A Printed on sheepskin.
- Q What became of that land do you know? A My father sold it.
- Q Do you know to whom? A Gentleman by the name of May, but I don't know his given name.
- Q May? A May.
- Q At the time your father removed to the Choctaw Nation, Indian Territory, did he leave any property in the State of Alabama or Mississippi? A No, sold all.
- Q So at the time of his death that he had no property there to probate at all? A Yes, he had forty acres in Mississippi, at Sulphur Springs.
- Q How did he acquire that forty acres? A He bought that.
- Q Do you know how long that section of land that you have spoken of as he having gotten from the government was in your family? A It was in my family ever since Dancing Rabbit Treaty up to the time he left there. It was in his possession when I left. I left there in '50 and he came here in '54 or 5.
- Q You stated you were born on that land? A Yes sir, born and raised there.
- Q He was located on that tract of land then before 1830? A Yes sir, he was on it before the treaty.
- Q Did Zedek Brashears have any brothers or sisters? A He had them, but I don't know anything of them.
- Q How about Susan Vaughn, did she have any brothers or sisters? A Yes sir, but I never knew but one of her brothers.
- Q What was his name? A Jim Vaughn.
- Q Was he a half blood? A Yes sir.
- Q Where did he live? A Lived in Mississippi.
- Q What County? A I don't know what County.
- Q How is the name Moncrief, your family name, spelled? A M o n c r i e f.
- Q Do you know in what District you resided in in Alabama, what Indian District? A No, I do not.
- Q Did you ever hear of Mush-u-la-tubbee District? A Yes sir. I don't know but I rather think I was in that District. I am not sure.
- Q Did you ever hear of Greenwood LeFlore's District? A Yes sir.
- Q Did you ever hear of Greenwood LeFlore in Mississippi or Alabama? A Yes sir, I heard of him.
- Q Was he a man of any standing? A Great standing there.
- Q Did he occupy any official position that you know of? A Yes sir.
- Q What? A He ratified that Dancing Rabbit Treaty.
- Q Was there any prominent Indians that lived right in the immediate vicinity of your father's home? A No sir. Well, might have been before my recollection, but it soon became a State and everybody left there.
- Q Had Sophia Brashears, the mother of the applicant Joseph Moncrief, ever been married prior to her marriage to your father Sampson? A Yes sir.

- Q What was her first husband's name? A First husband's name was Jones.
- Q What was he? A White man.
- Q Where did she and Jones live before they came to the Choctaw Nation, Indian Territory? A Lived in Marengo County, Alabama.
- Q Where is that located in reference to Sumpter County? A Across the river. Marengo County is on the east side of the river.
- Q Was it outside of the Choctaw Nation? A Oh, no.
- Q Do you know when she married Jones? A No sir.
- Q Do you know when Jones died? A No sir, they emigrated here a year before I did, and he died, and she married again. Second husband was Baker.
- Q She married Baker in the Indian Territory? A Yes sir.
- Q And your father was her third husband? A Yes sir.
- Q How does your age compare with Joseph Moncrief's mother's age?
- A She would be a great deal older than me; all of thirty years older than me.
- Q She was your mother's niece? A Yes sir.

By Mr. Coleman:

- Q You stated I believe that you lived on the Military road leading from Demopolis into Mississippi? A Yes sir.
- Q On which side of the road was the house located as to the road running east and west, the road going west? A On the south side of the road going west.
- Q Towards Mississippi from Demopolis? A Yes, Demopolis was a land office kept there.
- Q Now Mrs. Harlan I believe you stated in your direct examination that you had received land yourself in Mississippi under the treaty of 1830? A Yes sir.
- Q How much did you receive? A One hundred and sixty acres.
- Q What did you do with it? A Sold it.
- Q To whom? A To one Mr. Viceroy Tut.
- Q Did you have a patent to that land from the government?
- A Yes sir.
- Q Of what sort of material was it, written or printed? A It was on sheepskin.
- Q Now this other Sophia Brashears - - Sophia-Jones-Baker-Moncrief - she was a niece of your mother I believe you stated in your direct examination? A Yes sir.
- Q Did she receive lands in Mississippi under the treaty of 1830?
- A I don't know; I just supposed she did, as she was so much older than myself.
- Q Has it been a matter of family history that she received land?
- A No, not in my family.
- Q She was the mother of the present claimant Joseph Moncrief?
- A She was.
- Q Was she of Choctaw blood? A She was.
- Q Of Choctaw and white intermixture? A Yes sir.
- Q Of what degree of Choctaw blood was she, half blood or quarter?
- A I expect she was a half breed from the fact that she got blood from her grandfather and grandmother both. Her mother - I mean her mother and father both had Choctaw blood - which would make her - - of course you know about the blood that way.

- Q I believe you stated in your direct examination that Joseph Menorief, the present claimant in this case, was a half brother to you? A Half brother of mine.
- Q You also stated that you had been finally approved by the Secretary of the Interior as a citizen and placed upon the final rolls of the Choctaw Nation and received your lands? A Yes sir.

By the Commissioner:

- Q Where was your land located with reference to that of your fathers? A Joined it I think on the northeast. I couldn't tell you without looking on the map, but as well as my memory serves me it was on the northeast of my father's land.
- Q Did you live on it after you were married? A Yes sir.
- Q Was it improved at the time you took possession of it? A No sir.
- Q Wild land? A Wild land.
- Q Joseph Menorief's wife, Lulu Menorief, is a white woman? A Yes sir.

Witness excused.

NANCY A. HILL being called as a witness and duly sworn, testified as follows:

By the Commissioner:

- Q What is your full name? A Nancy A. Hill.
- Q How old are you, please? A Sixty.
- Q And your post office address? A Savanna, Indian Territory.
- Q Are you acquainted with the applicant, Joseph Menorief? A Yes sir.
- Q Are you related to him in any way? A Yes sir, he's my uncle, my mother's half brother.
- Q And who was your mother? A Mary McCarty. Her maiden name was Menorief.
- Q He's your half uncle? A Yes, half uncle; my mother's half brother.
- Q Who was Joseph Menorief's mother? A Sophia Brubbers was her maiden name, but she was a widow and her name was Goins or a Swines, but I always call it Goins. I don't know how it was spelled.
- Q She was a Goins before she married Sampson? A Yes sir.
- Q Where was the applicant, Joseph Menorief, born? A There in Seelyville County near Seelyville.
- Q When? A I don't know exactly, must have been along in '36 or '7, somewhere along there about that; somewhere about that. Well I know that he was born there, but I can't tell the year exactly.
- Q Who was the father of Joseph Menorief? A Sampson Menorief.
- Q Was he an Indian? A No sir.
- Q What was he? A He was a citizen though by marriage.
- Q White man? A White or French, I don't know which you would call him. He was kind of a French accent, but he was a citizen.

- Q Who was the father of Sophia Moncrief the mother of Joseph?
A Brashears I guess. Her maiden name was Brashears, but I don't know his given name.
- Q Do you know who the parents of Sophia Moncrief the mother of Joseph Moncrief is? A Brashears.
- Q What was her father's name? A I don't know; I couldn't tell you that.
- Q Do you know the name of Sophia Brashears' mother? A No sir.
- Q You are not acquainted with the ancestry of Joseph's mother?
A No sir.
- Q Where were you born? A Born in Alabama.
- Q What County? A Sumpter.
- Q Near what post office? A Demopolis I believe. I came from there when I was three years old.
- Q In what year? A I got to count back now - - About '49 I guess if I was three years old. I was born in '46 and I was three years old when I came, and that would make it '49.
- Q What is the name of your father? A Robert McCarty.
- Q In what direction from Demopolis did your parents live?
A I can't tell you, I was too small.
- Q You have no recollection of the location of any lands your ancestors may have had in Mississippi? A No sir.
- Q You don't know the relationship of any of your ancestors in Mississippi? A No sir.
- Q When did parents come to the Choctaw Nation where did they locate? A In Scullyville County.
- Q Near what place? A Near Scullyville there, near right on the Arkansas line.
- Q Were you acquainted with Sampson Moncrief? A Yes sir, he's my grandfather.
- Q Do you recollect when he came to the Choctaw Nation, Indian Territory? A Yes sir.
- Q What year was it? A Now you have got me again, I can't tell you what year that was, but I know when he came.
- Q With whom did he stay when he first came here? A My mother and my father.
- Q How long had he been here before he married the Sophia the mother of Joseph Moncrief? A I guess it was about a year, to the best of my knowledge.
- Q Was Sophia living in that neighborhood at that time? A Yes sir, about three or four miles from my father's house.
- Q Were you present at the time your grandfather Sampson Moncrief was married to Sophia the mother of Joseph? A Yes sir.
- Q Where were they married? A At my father's house there in Scullyville County.
- Q Who married them? A Well now I can't tell you that.
- Q Was he a white preacher or an Indian preacher? A I think Indian preacher; if I remember right his name was Felsen, but I can't swear it.
- Q How old were you at that time? A I was about ten or eleven years old.
- Q Who else was present on that occasion? A My goodness! I couldn't tell you, there was quite a crowd there.
- Q Was your mother living at this time? A Yes sir, living yet.
- Q Is she present here to-day? A No sir, she's not able to come.
- Q She was present on that occasion? A Yes sir.

By Mr. Coleman:

Q You stated I believe that Joseph Moncrief is an uncle of yours?

A Yes sir.

Q Choctaw by blood is he? A Yes sir.

Witness excused.

ANNIE DAVIS being called as a witness and duly sworn,
testified as follows:

By the Commissioner:

Q What is your full name? A Annie Davis.

Q How old are you? A Fifty-five.

Q Postoffice? A Savanna.

Q Are you acquainted with the applicant Joseph Moncrief?

A Yes sir.

Q Are you related to him in any way? A Yes.

Q What is the relationship? A Half brother.

Q What was the name of your father? A Amos Goins.

Q What was the name of your mother? A Sophia Goins.

Q Was your mother the mother of the applicant Joseph Moncrief?

Q How old were you when your mother was married to Sampson Moncrief? A Well, I can't tell you that.

Q Do you recollect the marriage? A No sir.

Q You are a citizen by blood of the Choctaw Nation? A Yes sir.

Q Been finally enrolled and received your allotment? A Yes sir.

Q Do you know anything about the ancestors of your mother? A No sir.

Q Were you personally acquainted with Sampson Moncrief? A No sir, I don't know him. I can't remember him.

Witness excused.

JOSEPH MONCRIEF, the applicant, being first duly sworn,
testified as follows:

By the Commissioner:

Q What is your full name? A Joseph Moncrief.

Q You are the applicant in this case? A Yes sir.

Q How old are you? A I am forty-nine. I was born in '57,
about that.

Q What is your post office address? A Savanna, I. T.

Q What is the name of your father? A Sampson Moncrief.

Q What was his blood? A Well I think he was white man and In-
dian, French descent.

Q How much French? A I couldn't tell you; I don't remember my
father; I was small when he died.

Q About how old were you when he died? A I couldn't tell you
that; I was so small that I don't remember.

- Q What is the name of your mother? A Well her name is Sophia Moncrief.
- Q Was she married prior to her marriage to Sampson Moncrief?
- A I suppose so; I don't know anything about that.
- Q Do you know anything of the family history of your mother?
- A No sir, not more than what I was told by my eldest sisters. I don't remember anything about the facts.
- Q Do you know who your grandmother was on your mother's side?
- A Well no sir, I don't know as I could tell.
- Q Do you know who your grandfather was on your mother's side?
- A Alex Brashears they say.
- Q Was he Choctaw? A I couldn't tell you that sir.
- Q You have no knowledge relative to your ancestry than at all, back? A No sir, only what I was told by my sisters. I was too small to know anything about it.
- Q Did your father have any other children besides yourself, with your mother? A Not that I know of.
- Q Was your father married prior to his marriage to your mother?
- A Before that you mean? Yes sir.
- Q Who was he married to before that - before he married your mother? A To Goins.
- Q Who was your father married to before he married your mother?
- A Well, I don't know her name. I couldn't answer that.
- Q Where were you born? A I was born in the Choctaw Nation near Scullyville, known now as Oak Lodge.
- Q How long did you live there continuously after your birth?
- A Well sir, I suppose I must have been twelve years or more when I was carried away by my eldest brother to Georgia.
- Q What was his name? A Charles Jones.
- Q He was a half brother? A Yes sir.
- Q And how long did you live in Georgia? A Well, I remained in Georgia until I was grown up - man grown.
- Q How old? A Well, I remained in Georgia, Tennessee and Alabama together; I roamed about first one place and another; twenty-five or thirty; until I was a man married in that country.
- Q And then did you return to the Choctaw Nation? A Yes sir.
- Q When did you return? A Well to the best of my recollection-- I never kept the date--but it was in 1896, if I aint mistaken.
- Q Haven't you testified here before that you returned in 1898?
- A If I did I don't remember.
- Q How long had you been married when you returned here?
- A Well sir, I couldn't tell you; I was married on the 12th day of August, 1888.
- Q You had a family when you came back to the Choctaw Nation?
- A Yes sir, me and my wife.
- Q Didn't have any children? A No sir.
- Q Your wife is a white woman? A Yes sir.
- Q Citizen of the United States? A Yes sir.

By Mr. Coleman:

- Q Have you ever applied to be enrolled to the tribal authorities of any other tribe than the Choctaws, to be enrolled as a citizen of any other tribes, to be enrolled as a Creek, Cherokee or anything else but a Choctaw?
- A Well I went before the Dawes Commission but I don't just exactly understand it.

Applicant excused.

Albert G. Milling being first duly sworn, stated that as stenographer to the Commissioner to the Five Civilized Tribes he reported the proceedings had in the above entitled cause on the 10th day of May, 1906, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Albert G. Milling

Subscribed and sworn to before me this 10th day of May, 1906.

Edward M. Miller
Notary Public.

7-R-414.
O.L.J.

J60

COPY!

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-oOo-

In the matter of the application for the enrollment of Joseph Moncrief as a citizen by blood of the Choctaw Nation, and for the enrollment of Lulu Moncrief, as a citizen by intermarriage of the Choctaw Nation.

---: D E C I S I O N :---

It appears from the record herein, and from the records of the Commission, that Joseph Moncrief appeared before this Commission at South McAlester, Indian Territory, during the month of September, 1899, and made application for the enrollment of himself as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Lulu Moncrief, as a citizen by intermarriage of the Choctaw Nation.

It further appears from the record herein that Joseph Moncrief is an one-quarter blood Choctaw Indian, and the son of Samson Moncrief, a noncitizen white man, and Sophia Brashears, an one-half blood Choctaw Indian. Lulu Moncrief is the daughter of Pleasant Self and Arta Lizzie Self, both noncitizen white persons, and claims her right to enrollment by virtue of her marriage to the above named Joseph Moncrief.

From the evidence submitted in support of said application and from the records in the possession of the Commission, it does not appear that either of said applicants has ever been enrolled by the Choctaw tribal authorities as a member of the Choctaw tribe, or admitted to Choctaw citizenship by a duly constituted court, or committee of the Choctaw Nation, or by the Commission to the Five Civilized Tribes, or by a decree of the United States Court in Indian Territory, under the provisions of the Act of Congress approved June 10, 1896, (29 Stats., 321).

For the purpose of protecting any rights the principal applicant herein might have as a Mississippi Choctaw, under the following provision of the Act of Congress approved June 23, 1898, (30 Stats., 495):

"Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation, concluded September twenty-seventh, eighteen hundred and thirty, and to that end may administer oaths, examine witnesses, and perform all other acts necessary thereto and make report to the Secretary of the Interior."

the principal applicant herein was, on March 9, 1905, notified by registered mail that he would be allowed thirty days from that date within which to set forth that he claimed a right to identification as a Mississippi Choctaw. A copy of said notice is attached hereto and made a part of the record in this case. No response has been made by or on behalf of said applicant to said notice.

It is therefore the opinion of this Commission that the application made for the enrollment of Joseph Moncrief as a citizen by blood of the Choctaw Nation, and for the enrollment of said Moncrief as a citizen by intermarriage of the Choctaw Nation, should be denied under the provisions of the Act of Congress approved June 28, 1905, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

SIGNED:

James Bixby

Chairman.

SIGNED:

T. B. Needles

Commissioner.

SIGNED:

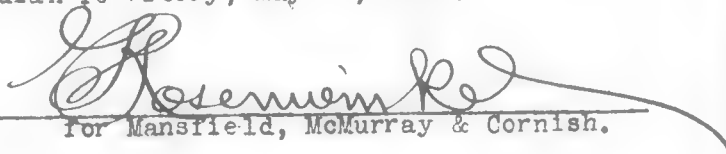
C. R. Breckinridge

Commissioner.

Muskogee, Indian Territory.

JAN 7 - 1905

Received of the Commissioner to the Five Civilized Tribes
copy of testimony in the matter of the application for the
identification of Joseph Moncrief as a Mississippi Choctaw,
taken at Muskogee, Indian Territory, May 18, 1906.


for Mansfield, McMurray & Cornish.

Muskogee, Indian Territory,

June 18, 1906.

Miss Choe Beck

Commission to the Five Civilized Tribes,

South McAlester, Ind. Ter.

In the application of Joseph Monariel for enrollment as a
Choctaw; being sworn and examined by Com'r Johnson he states;

Q What is your name? A Joseph Monariel.

Q How old are you? A Forty-two.

Q You were born in the Choctaw nation? A Yes sir.

Q How long did you live here? A I was about thirteen years
old, I suppose, when I was carried away to Georgia by my brother.

Q When did you return from Georgia? A Last May a year ago.

Q What time in May? A About the first of May, I believe,
of last year.

Q You have lived out of the nation all the while since you went
away? A Yes sir, I never was able to come home.

Q You are not on the Choctaw rolls? A Not as I know of, until
I came back.

Com'r Johnson: Nobody was authorized to put you on after you
came back.

Applicant: I went before council at Tuskegee, I was informed
there that I would be put on the roll.

Q What degree of blood have you? A About a quarter.

Com'r Johnson: Enrollment is refused.

Department of the Interior,

Commission to the Five Civilized Tribes,

South McAlester, Ind. Ter.
I hereby certify that the foregoing is a true and correct translation of
the original in Choctaw, and that this
translation is true, full and correct.

[Signature]

(C O P Y)

Office Supt. Indian Affairs,

Fert Smith, Arkansas,

November 28th, 1855.

Sir:-

Herewith submit for the consideration of the Hon. Commissioner of Indian Affairs the enclosed papers received from Douglas H. Cooper, Esq., U. S. Agent for the Cheetaws, First:- Muster Roll of the family of Sampson Monerief, with affidavit attached, who claims commutation for removal and subsistence as self-emigrated Cheetaws. In relation to this case Agent Cooper remarks:- "Mr. Monerief arrived in the Cheetaw Nation West Feby. 22nd 1855. He is a white man - a reservee of the Treaty of 1830 - has a Cheetaw family; the most of the persons embraced on his muster roll are his servants." Mr. Monerief claims he is justly entitled to commutation, but the Agent in view of the fact that the emigration of Cheetaws is closed, desires specially to submit the case for the Commissioner's decision.

Second:- The Memorial of Amos W. Gray and others, with affidavit attached, addressed direct to the Hon. Commissioner of Indian Affairs, praying for an allowance as self-emigrated Cheetaws and permanent settlers in the Nation West. This Memorial is submitted by the Agent without comment.

When the Commissioner shall have arrived at a conclusion respecting the claims herewith presented, I respectfully request that the same may be communicated to this office.

Hon. Geo. V. Maysponny,
Commissioner, etc.,
Washington City, D.C.

Very respectfully,
Your obt. svt. G.W. DEAN, Supt. do.

McAlester Ind Ter 7/24/05

Hon. Hitchcock Sec'y of Interior

Washington D. C.

Dear Sir:

I appeal to your honor in behalf of one Joe Moncrief a quarter blood Choctaw Indian, who has made every effort possible to get placed on the Rolls as a Choctaw by Blood But have failed. It looks very strange that every relative a man has living can be placed on the Rolls and him a lone rejected. He has all the evidence necessary to prove his right as a Choctaw by Blood. His mother was shipped to this country when all the Choctaws was shipped here from Mississippi and Alabama. His mother was then an undisputed Choctaw and all her children except Joe that are living and their posterity and the children of her dead children all have been excepted without any contention whatever. There were four set of children by four marriages, Jones, Moncrief, Going and Baker. There is a large generation of the family and he is the one rejected. It certainly looks hard for him to be rejected when he has a just right as much so as half of the enrolled citizens by Blood of the Choctaws. Please give him an investigation. He was born and partly raised at Scullyville. I have known him since we were boys together and his mother also. She was sister to my Grandmother I am Choctaw by Blood and am 48 years old and know all the family connections and necessary evidence

-2-

regarding his case I can give if you desire any.

Respty Yours

John Folsom

Indorsed:

Department of the Interior.
Received Aug. 1, 1905.
No. 7071.
Indian Territory Division.

McAlester, I. T. December the 1st 1905.

Honorable E. A. Hitchcock,
Secretary of the Interior.

Washington D. C.

Dear Sir:

Inclosed please find a Motion to remand back for a rehearing before the Commissioner for the Five Tribes of Indians in the Indian Territory the Application of Joseph Mencrief for Enrollment as a member of the Choctaw Tribe of Indians in the Indian Territory. You will please find Postal Card from the Attorneys for the Choctaw and Chickasaw Tribes acknowledging service of a copy on them of the papers in the case.

I would be pleased to have the motion sustained and a new hearing in the case as early as possible.

Yours Very Truly.

R. B. Coleman
Atty for Claimant

Indorsed:

Department of the Interior,
Received Dec. 4, 1905.
No. 11407.
Indian Territory Division.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Land.
18394 - 1908.
18188 - 1906.

WASHINGTON.

February 19, 1906.

The Honorable,

The Secretary of the Interior.

SIR:

Acknowledgment is hereby made of the receipt of Departmental letter of the 8th instant (I.T.D. 1864-1908, 1881-1906), asking that the record on the application of Joseph Menorief, for his enrollment as a citizen by blood, and for the enrollment of his wife, Lulu Menorief, as a citizen by intermarriage of the Choctaw Nation, be returned for use in passing on a motion to re-open the case.

The record requested is enclosed.

The applicants in this case base their claims to a right to enrollment as Choctaw citizens on the descent of the principal applicant, Joseph Menorief, from Sampson Menorief, through his son, Joseph Menorief, it being alleged that Sampson was an intermarried white man in the Choctaw Nation West in 1838, he having married Sophia Brashers, a half-blood Choctaw Indian.

Since the Department was not furnished with any information from the records of this Office concerning the claim of ancestry on the part of the applicant in chief at the time

the case was originally submitted on February 17, 1905, the following is submitted for your use in connection with the motion to re-open the case:

Sampson Munerief was an intermarried citizen of the Choctaw Nation in Alabama, in 1830. He applied for the benefits of the 14th article of the Choctaw treaty of that year in behalf of himself and his family and his application was approved by the United States Government. At that time his family consisted of one child over ten and three under ten years of age, but the names of the children were not furnished to the War Department in connection with the submission of the claim. There was patented to him on October 24, 1838, all of section 8, the east half of section 7, the west half of section 9, and the northeast quarter of section 17, township 18 north, range 2 east, Sumter County, Alabama. In 1855 he removed with his family to the Choctaw Nation, Indian Territory.

In 1858 the authorities of the Choctaw Nation submitted to the Government the claims of sundry citizens of the Nation for the cost of self-emigration or the sacrifice of property, and among these was a claim for Sampson Munerief for the cost of self-emigration of 33 persons. The schedule of claims was certified as follows:

We, the undersigned commissioners, do hereby certify that the individuals specified in the foregoing lists appeared before us in person, with the witnesses therein named; that we rigidly scrutinized the facts in each case and that we are entirely satisfied of the correctness of the conclusions at which we arrived, as set forth in the statement and the recapitulations Nos. 1 and 2.

(Signed)

Choctaw Agency,
Jan. 30, 1888.

Thomson McKenney
Adam Christy
Robert Kincaid, Commissioners.

which was followed by the certificate of the Agent:

Washington City, March 30, 1858.

At the request of the Choctaw delegation now in this city, I hereby certify that the foregoing lists, Nos. 1 and 2, of claimants in Mosholatubbee District of the Choctaw Nation for self-emigration from the old Choctaw country east of the Mississippi River to the nation west, and for property lost in the Choctaw emigration under the treaty of 1830, and of the specific property so lost by them and its value was taken and prepared by Thompson McKenney, Adam Christy and Robert Kincaid, who were duly appointed by the authorities of the Choctaw Nation for that purpose, and that they are Choctaws of intelligence, good standing and integrity.

(Signed) Douglas H. Cooper,

U. S. Indian Agent,
for Choctaws and Chickasaws.

A copy of the muster roll of the family of Sampson Muncrief is enclosed for your information, together with copy of letter of the Superintendent of Indian Affairs at Fort Smith, Arkansas, with which the muster roll was transmitted.

Very respectfully,

C. F. LARABEE,

Acting Commissioner.

MBH-Y

(C O P Y)

Master Roll of a party of Choctaws who emigrated from the East side of the Mississippi River to the Choctaw Nation west of Arkansas, and arrived in the Choctaw country on the 22nd day of February 1858:

	Men	Women	Children	Total
Sampson Monerief and family - - -	9	10	15	34

I, the undersigned, issuing commissary of subsistence for emigrant Choctaws in the Arkansas District of the Choctaw Nation, do hereby certify that Mr. Sampson Monerief and family arrived in the Choctaw country West on the 22nd of February, 1858, as above stated.

TANDY WALKER,

Issuing Commissary
Arkansas District.

State of Arkansas }
County of Sebastian }

Personally appeared this 24th day of October, 1858, before me, John Carnall, Clerk of the Circuit Court in and for said County, James C. McLean, to me personally known, and being sworn, on oath states that Sampson Monerief and family, consisting of the number of persons hereinabove stated, to wit 34 persons, arrived in the Choctaw Country West from the East side of the Mississippi River from the old Choctaw Nation, on or about the time set forth above, that he, the said McLean, was present in the old Choctaw Nation at the time of their leaving the same;

saw them leave, and that they, the said Mumarief and family never had before that time emigrated to the Chectaw Nation West.

Sworn to and subscribed
before me the day and
year aforesaid. }

James C. McLean.

In testimony whereof I hereto set my hand as such Clerk and affix my Official Seal at Fort Smith the day and year aforesaid.

JOHN CARMALL, Clerk.

(SEAL)

DEPARTMENT OF THE INTERIOR LIB

OR

(COPY)

WASHINGTON.

I.T.D. 1864-1905.
1881-1906.
3186- "

March 6, 1906.

L. R. S.

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

February 23, 1905 (I.T.D.1864), the Department affirmed the decision of the Commissioner to the Five Civilized Tribes of January 7, 1905, denying the application of Joseph Monerief for his enrollment as a citizen by blood and for the enrollment of his wife, Lula Monerief, as a citizen by intermarriage of the Cheetaw Nation. The right of applicant to be identified as a Mississippi Cheetaw is not concluded by said decision.

February 2, 1905, a motion for rehearing was filed in said case with the Department, and upon the retransmission of the record therein, the Commissioner of Indian Affairs furnished valuable information concerning the ancestry of applicant in chief, as shown by the records of his office, which he failed to furnish at the time the case was originally submitted by him, on February 17, 1905.

A copy of the Indian Office letter and a transcript from the records of his office are enclosed for your guidance, show-

ing that one Sampson Munerief, a white man, an intermarried citizen of the Choctaw Nation in Alabama, applied in 1830 under article 14 of the treaty of that year, and on October 24, 1838, was patented all of section 8, the E/2 of section 7, the W/2 of section 9, and the NE/4 of section 17, T. 18 N., R. 2 E., Sumter County, Alabama. His family consisted at that time of one child over 10 and three under 10 years of age; names of children not given.

In 1855 Sampson Munerief self-emigrated with his family and retinue of 34 persons, and arrived in the Choctaw country, on February 28, 1855. He made claim before the United States agent at Fort Smith, Ark., on November 28, 1855, for commutation for said removal and subsistence as self-emigrated Choctaws.

The evidence submitted in this case shows that the principal applicant, Joseph Munerief, of one-quarter Choctaw blood, was born about 1857, near Scullyville, now known as Oak Lodge, in the Choctaw Nation, Ind. T.; that he is the issue of one Sampson Munerief, a man of French descent, who married a half-breed Choctaw Indian woman, Sophia Brashears, who emigrated with the other Choctaws to the Indian Territory, where she died about 1866, near Oak Lodge, Choctaw Nation. Upon her death, when a smallboy of 13 years of age, applicant was taken away, in 1870, by his half-brother, Charles Jones, to Georgia, where in 1878 he was sentenced to the Georgia penitentiary for voluntary manslaughter.

ter, and was pardoned therefrom by Governor John B. Gordon on March 5, 1887 (see Exhibit B). From Georgia he roamed around to different places and returned to the Indian Territory on May 1, 1898.

It is claimed that applicant made application for enrollment in September, 1899, before Judge S. H. Lewis, and Mrs. Sarah Harlan and Anna Davis, claimed to be his half-sisters and the issue of the same mother, testified to said fact and stated that they are enrolled Chectaw citizens by blood.

Applicant should be given an opportunity, in view of the record, to submit testimony tending to show whether he is the descendant of a patentee under article 14 of the treaty of 1830. Said motion for rehearing is hereby granted.

In accordance with departmental decision in the case of Ben Henderson of September 10, 1905 (I.T.R. 3732), the record in said case is remanded for the purpose of determining the right of applicant to be identified as a Mississippi Chectaw.

Respectfully,

Thos. Ryan

First Assistant Secretary.

1 inclosure.

7-R-414.

C O P Y.

Muskogee, Indian Territory, April 28, 1906.

Joseph Moncrief,

Savanna, Indian Territory.

Dear Sir:

The Commission to the Five Civilized Tribes on January 7, 1905, rendered a decision refusing the application made by you for the enrollment of yourself as a citizen by blood of the Choctaw Nation and for the enrollment of your wife, Lulu Moncrief, as a citizen by intermarriage of the Choctaw Nation. This decision was affirmed by the Secretary of the Interior February 23, 1905 (I.T.D. 1864-1905).

On February 2, 1906, a motion for rehearing was filed with the Department, which motion was granted by the Secretary of the Interior on March 5, 1906 (I.T. D. 1864-1905, 1381, 3186-1906), and the record in the case remanded to the Commissioner to the Five Civilized Tribes with instruction that you be given an opportunity to submit testimony tending to show whether you are the descendant of a patentee under the 14th article of the Choctaw treaty of 1830.

The records of the Indian Office relating to the compliance of persons with the provisions of article 14 of the treaty of 1830, contain certain information, as of the year 1830, relative to the persons whose names appear thereon, showing:

Joseph Moncrief 2

1st. Their description.

2nd. Their residence and improvements (usually locating the same by reference to some town, county, body of water or public road).

3rd. Their Choctaw as well as their English names.

4th. The names and number of the persons who composed their families.

5th. The names of their neighbors and immediate associates, and for the purpose of comparison, testimony of like character should be furnished relative to your ancestors.

You are hereby advised that in conformity with the instructions of the Secretary of the Interior, the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Wednesday, May 16, 1906, at nine o'clock A. M., hear such testimony as may be submitted by or on your behalf relative to the compliance on the part of your ancestors with the provisions of the 14th article of the Choctaw treaty of 1830.

Respectfully,

Signed Tams Bixby,

Commissioner.

Registered.

7-R-414

C O P Y

Muskogee, Indian Territory, April 28, 1906.

R. B. Coleman,

Attorney at Law,

McAlester, Indian Territory.

Dear Sir:

The Commission to the Five Civilized Tribes on January 7, 1905, rendered a decision refusing the application made by Joseph Moncrief for the enrollment of himself as a citizen by blood of the Choctaw Nation and for the enrollment of his wife, Lulu, as a citizen by intermarriage of the Choctaw Nation. This decision was affirmed by the Secretary of the Interior February 23, 1905 (I.T.D. 1864-1905).

On February 2, 1906, a motion for rehearing was filed with the Department, which motion was granted by the Secretary of the Interior on March 6, 1906 (I T D 1864-1905, 1381, 3186-1906), and the record in the case remanded to the Commissioner to the Five Civilized Tribes with instruction that the applicant be given an opportunity to submit testimony tending to show whether he is the descendant of a patentee under the 14th article of the Choctaw treaty of 1830.

The records of the Indian Office relating to the compliance of persons with the provisions of the 14th article of the treaty of 1830, contain certain information, as of the year 1830, relative

R. B. Coleman 2

to the persons whose names appear thereon, showing:

- 1st. Their description.
 - 2nd. Their residence and improvements (usually locating the same by reference to some town, county, body of water or public road.)
 - 3rd. Their Choctaw as well as their English names.
 - 4th. The names and number of the persons who composed their families.
 - 5th. The names of their neighbors and immediate associates.
- and for the purpose of comparison, testimony of like character should be furnished relative to the ancestors of Joseph Moncrief.

You are hereby notified that in accordance with the instructions of the Secretary of the Interior, the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Wednesday, May 16, 1906, at nine o'clock A. M., hear such testimony as may be submitted by or on behalf of Joseph Moncrief, relative to the compliance on the part of his ancestors with the provisions of the 14th article of the Choctaw treaty of 1830.

Copy of Departmental letter of March 6, 1906, is herewith enclosed.

Respectfully,

Signed Tams Bixby,

Commissioner.

Registered.
McM 28/1

7-R-414

C O P Y.

Muskogee, Indian Territory, April 28, 1906.

McKennon & Dean,

Attorneys at Law,

South McAlester, Indian Territory.

Gentlemen:

The Commission to the Five Civilized Tribes on January 7, 1905, rendered a decision refusing the application made by Joseph Moncrief for the enrollment of himself as a citizen by blood of the Choctaw Nation and for the enrollment of his wife, Lulu, as a citizen by intermarriage of the Choctaw Nation. This decision was affirmed by the Secretary of the Interior February 23, 1905 (I. T. D. 1864-1905).

On February 2, 1906, a motion for rehearing was filed with the Department, which motion was granted by the Secretary of the Interior on March 6, 1906 (I. T. D. 1864-1905, 1381, 3186-1906), and the record in the case remanded to the Commissioner to the Five Civilized Tribes with instructions that the applicant, Joseph Moncrief, be given an opportunity to submit testimony tending to show whether he is the descendant of a patentee under the 14th article of the Choctaw treaty of 1830.

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McK & D 2

treaty of 1830, contain certain information, as of the year 1830, relative to the persons whose names appear thereon, showing:

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2nd. Their residence and improvements (usually locating the same by reference to some town, county, body of water or public road).

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4th. The names and number of the persons who composed their families.

5th. The names of their neighbors and immediate associates, and for the purpose of comparison, testimony of like characted should be furnished relative to the ancestors of Joseph Moncrief.

You are hereby notified that in accordance with the instructions of the Secretary of the Interior, the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Wednesday, May 16, 1906, at nine o'clock A. M., hear such testimony as may be submitted by or on behalf of Joseph Moncrief, relative to the compliance on the part of his ancestors with the provisions of the 14th article of the Choctaw treaty of 1830.

Respectfully,

Signed Tams Bixby

Commissioner.

Registered.

7-R-414

C O P Y.

Muskogee, Indian Territory, April 28, 1906.

Rogers & Hill,

Attorneys at Law,

South McAlester, Indian Territory.

Gentlemen:

The Commission to the Five Civilized Tribes on January 7, 1905, rendered a decision refusing the application made by Joseph Moncrief for the enrollment of himself as a citizen by blood of the Choctaw Nation and for the enrollment of his wife, Lulu, as a citizen by intermarriage of the Choctaw Nation. This decision was affirmed by the Secretary of the Interior February 23, 1905 (I.T.D.1864-1905).

On February 2, 1906, a motion for rehearing was filed with the Department, which motion was granted by the Secretary of the Interior on March 6, 1906, and the record in the case remanded to this office with instructions that the principal applicant, Joseph Moncrief, be given an opportunity to submit testimony tending to show whether he is the descendant of a patentee under the 14th article of the Choctaw treaty of 1830.

The records of the Indian Office relating to the Compliance of persons with the provisions of the 14th article of the treaty of 1830, contain certain information as of the year 1830, relative to the persons whose names appear thereon, showing:

R & H 2

1st. Their description.

2nd. Their residence and improvements (usually locating the same by reference to some town, county, body of water or public road).

3rd. Their Choctaw as well as their English names.

4th. The names and number of the persons who composed their families.

5th. The names of their neighbors and immediate associates, and for the purpose of comparison, testimony of like character should be furnished relative to the ancestors of Joseph Moncrief.

You are hereby notified that in accordance with the instructions of the Secretary of the Interior, the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Wednesday, May 16, 1906, at nine o'clock A. M., hear such testimony as may be submitted by or on behalf of Joseph Moncrief, relative to the compliance on the part of his ancestors with the provisions of the 14th article of the Choctaw treaty of 1830.

Respectfully,

Signed Tams Bixby,

Registered.

Commissioner.

7-R-414

C O P Y.

Muskogee, Indian Territory, April 28, 1906.

Winningham & Redwine,

Attorneys at Law,

South McAlester, Indian Territory.

Gentlemen:

The Commission to the Five Civilized Tribes on January 7, 1906, rendered a decision refusing the application made by Joseph Moncrief for the enrollment of himself as a citizen by blood of the Choctaw Nation and for the enrollment of his wife, Lulu, as a citizen by intermarriage of the Choctaw Nation. This decision was affirmed by the Secretary of the Interior February 23, 1905 (ITD 1864-1905).

On February 2, 1906, a motion for rehearing was filed with the Department, which motion was granted by the Secretary of the Interior on March 6, 1906, and the record in the case remanded to this office with instructions that the principal applicant, Joseph Moncrief, be given an opportunity to submit testimony tending to show whether he is the descendant of a patentee under the 14th article of the Choctaw treaty of 1830.

The records of the Indian Office relating to the compliance of persons with the provisions of the 14th article of the treaty of 1830, contain certain information as of the year 1830, relative to the persons whose names appear thereon, showing:

W & R 2

1st. Their description.

2nd. Their residence and improvements (usually locating the same by reference to some town, county, body of water or public road).

3rd. Their Choctaw as well as their English names.

4th. The names and numbers of the persons who composed their families.

5th. The names of their neighbors and immediate associates, and for the purpose of comparison, testimony of like character should be furnished relative to the ancestors of Joseph Moncrief.

You are her-by notified that in accordance with the instructions of the Secretary of the Interior, the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Wednesday, May 16, 1906, at nine o'clock A. M., hear such testimony as may be submitted by or on behalf of Joseph Moncrief, relative to the compliance on the part of his ancestors with the provisions of the 14th article of the Choctaw treaty of 1830.

Respectfully,

Signed Tams Bixby,

Commissioner.

Registered.

7-R-414

C O P Y.

Muskogee, Indian Territory, April 28, 1906.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

The Commission to the Five Civilized Tribes on January 7, 1905, rendered a decision refusing the application made by Joseph Moncrief for the enrollment of himself as a citizen by blood of the Choctaw Nation and for the enrollment of his wife, Lulu, as a citizen by intermarriage of the Choctaw Nation. This decision was affirmed by the Secretary of the Interior February 23, 1905 (I.T.D. 1864-1905).

On February 2, 1906, a motion for rehearing was filed with the Department, which motion was granted by the Secretary of the Interior on March 6, 1906 (I.T.D. 1864-1906, 1381, 1286-1906), and the record in the case remanded to the Commissioner to the Five Civilized Tribes with instruction that Joseph Moncrief be given an opportunity to show whether he is a descendant of a patentee under the 14th article of the Choctaw treaty of 1830.

You are hereby notified that in accordance with the instructions of the Secretary of the Interior, the Commissioner to the Five Civilized Tribes, will at his office at Muskogee, Indian

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Territory, on Wednesday, May 16, 1906, at nine o'clock A. M., hear such testimony as may be submitted by or on behalf of Joseph Moncrief, relative to the compliance on the part of his ancestors with the provisions of the 14th article of the Choctaw treaty of 1830.

Respectfully,

Signed Tams Bixby,
Commissioner.

Registered.

McM 28/2

C O P Y

D.C. McCurtain. E.P. Hill
MCCURTAIN & HILL
Lawyers.
South McAlester, I.T.

May 4th 1906.

Hon. Tams Bixby, Commissioner,
Muskogee, I.T.

Dear Sir:

We are in receipt of yours of the 28th ult addressed to "Rogers & Hill" stating that a motion for rehearing in re the application of Joseph Memorief had been granted by the Secretary of the Interior, and that you will hear such testimony as may be submitted on behalf of the applicant at your office on May 16th 1906. In reply you are advised that we do not represent Mr. Memorief, and we do not now know his whereabouts. He is living somewhere in the Cheataw Nation, but we do not know his address. We know that for several years he has been trying to establish his right as a citizen, but we are unable to notify him of the setting of the case for the reason that we do not know where to reach him.

Respectfully yours,

(Signed) McCurtain & Hill

COPY.

Muskogee, Indian Territory, June 11, 1906.

The Honorable

The Secretary of the Interior.

Sir:

The Department on February 23, 1905 (I.T.D. 1864-1905), affirmed the decision of the Commission to the Five Civilized Tribes of January 7, 1905, denying the application of Joseph Menerief for enrollment as a citizen by blood, and for the enrollment of his wife, Lulu Menerief, as a citizen by intermarriage of the Choctaw Nation.

February 2, 1906, a motion for rehearing was filed with the Department in the matter of said application, and March 6, 1906 (I.T.D. 1864-1905, 1881, 1886-1906), the Department returned to this office the record in the case of Joseph Menerief, et al., with instructions that the principal applicant be given an opportunity to submit testimony to show whether he is the descendant of a patentee under article fourteen of the treaty of 1830.

In accordance with the above instructions, notice was on April 28, 1906, furnished Joseph Menerief, his attorneys of record, and the attorneys for the Choctaw and Chickasaw Nations, that a hearing would be had at the General Office of the Commissioner to the Five Civilized Tribes on Wednesday, May 16, 1906, at nine o'clock a. m.

May 16, 1906, proceedings were had in the matter of said application pursuant to the notices above mentioned, at which time the testimony of Sarah A. Harlan, Nancy A. Hill and Annie Davis was submitted.

Sarah A. Harlan testified that she was seventy-seven years of age and a half-sister of the applicant, Joseph Monerief; that she was the daughter of Sampson Monerief and Sophia Monerief (nee Brashears); that Sampson Monerief was a white man of French descent, who together with his Indian wife, the mother of the witness, received lands under article fourteen of the treaty of 1830; that said land was located between Demopolis and Belmont, Sumter County, Alabama, said land lying south of the Military road, and about a mile from the Tombigbee river.

The witness also testified that she received land under article fourteen of the treaty of 1830, which prior to her removal to the Indian Territory in 1850, she sold to a white man by the name of May; that her father, Sampson Monerief, removed to Skullyville County, Choctaw Nation, Indian Territory, in 1855, where about 1856, (his first wife, Sophia Monerief, nee Brashears, having died in 1855), he married Sophia Geins (nee Brashears), the mother of the applicant, Joseph Monerief.

Mrs. Harlan's testimony is also to the effect that Sampson Monerief had at the time of the treaty of 1830, four children; Susan, over ten, and William, Mary Ann, and Sarah (the witness), under ten years of age, the latter having been born in 1830. She

further testified that Sophia Goins (nee Brashears), the mother of the applicant, formerly resided in Marengo County, Alabama, from which place she removed to the Choctaw Nation with her husband in 1849; that the mother of said applicant was a daughter of Annie Brashears, who was a sister of the witness' mother, and the daughter of Edeas Brashears, a white man, and Susan Bond, a half-blood Choctaw, who received land under article fourteen of the treaty of 1830; and that the paternal grandfather of the applicant was Alex Brashears, who possessed Choctaw and Creek blood in equal degree, and who resided on Susarneechee Creek with his wife, Annie Brashears; above mentioned.

Nancy A. Hill testified that she was sixty years of age, and the niece of the applicant; that she was the daughter of Sampson Menerief and Sophia Menerief, his first wife; that the applicant was the son of Sampson Menerief and Sophia Goins (nee Brashears); that Sampson Menerief came to the Indian Territory and settled near Skullyville, Choctaw Nation, and that about a year thereafter he was married at her home near Skullyville to the applicant's mother.

Annie Davis testified that she was fifty-five years of age and a half-sister of the applicant, both she and the applicant being children of Sophia Goins (nee Brashears), who married Sampson Menerief after his removal to the Choctaw Nation, Indian Territory.

As set forth in the letter of the Indian Office of February 19, 1906, it appears from the records of said office that one Sampson Monerief, an intermarried citizen of the Choctaw Nation in Alabama in 1830, applied for the benefits of the fourteenth article of the Choctaw treaty of that year in behalf of himself and family, which consisted at the time of one child over ten and three children under ten years of age; that there was patented to him on October 4, 1836, all of section eight, the east half of section seven, the west half of section nine, and the northeast quarter of section seventeen, township eighteen north, range two east, Sumter County, Alabama; and that in 1855 he removed with his family to the Choctaw Nation, Indian Territory.

It further appears from an examination of the records in the possession of this office that the name of Alexander Brashears appears upon page 18, volume 1, "Claimant's Brief and Evidence", in the case of "Choctaw Nation vs. United States", before the Court of Claims, number 12742, in a "Registration of Choctaws as entered by the agent, who wished to become citizens according to the provisions of the treaty of 1830", wherein it appears that said Alexander Brashears was a one-half blood Creek, and at the time of the treaty had five children over ten and two children under ten years of age. The name of one Zades Brashears also appears therein as a half breed Indian, with two children under ten years of age.

The record in this case, together with letter from P. B. Jarman, Judge of Probate, Sumter County, Alabama, addressed to R. B. Coleman, McAlester, Indian Territory, and certificate of said P. B. Jarman relative to the entering of certain land by Sampson Moncrief under the Choctaw treaty of 1830, is herewith enclosed.

I have carefully considered the original record in the matter of the application for the enrollment of Joseph Moncrief as a citizen by blood and for the enrollment of his wife, Lulu Moncrief as a citizen by intermarriage of the Choctaw Nation, together with the additional proceedings had in the case in conformity with the Department's instructions of March 6, 1906, and can see no reason why the original decision of the Commission to the Five Civilized Tribes of January 6, 1905, which was affirmed by the Department February 25, 1905 (I T D 1864-1905), should be disturbed. The applicant Lulu Moncrief claiming as an intermarried citizen of the Choctaw Nation could not, under the rulings of the Department, acquire any rights as a citizen of said Nation by reason of her marriage to Joseph Moncrief, in the event of the identification of said Joseph Moncrief as a Mississippi Choctaw.

The record as now submitted shows that Sampson Moncrief the father, Alex Brashears the grandfather, and Edock the great-grandfather of the applicant, Joseph Moncrief, are identical with the Sampson Moncrief, Alexander Brashears and Idock Brashears whom

-6-

the records in the possession of this office and of the Indian Office show were beneficiaries under the 14th article of the Choctaw treaty of September 27th, 1830 and received land under said article.

I am therefore of the opinion and so recommend that the applicant, Joseph Menorief, be identified as a Mississippi Choctaw entitled to rights as the descendant of a beneficiary under the provisions of the 14th article of the Choctaw treaty of 1830.

Respectfully,

SIGNED *Tame Dixby.*

Commissioner.

Through the Commissioner
of Indian Affairs.

W-8/1

7-R 414

Muskogee, Indian Territory, June 7, 1906.

R. B. Coleman,

Attorney at Law,

McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 2nd instant, enclosing letter addressed to you by P. B. Jarman, Judge of Probate, Sumter County, Alabama, and certificate of said Judge relative to the entry by Sampson Moncrief of certain lands in Alabama under the treaty of 1830.

The papers above mentioned will be forwarded with the record in the case of Joseph Moncrief to the Secretary of the Interior for his consideration.

Respectfully,

Commissioner.

7-R-414

Muskogee, Indian Territory, July 27, 1906.

R. B. Coleman,
Attorney at Law,
McAlester, Indian Territory.

Dear Sir:

Replying to that part of your letter of the 24th instant, wherein you request to be advised if the Secretary of the Interior has passed upon the application of Joseph Moncrief for identification as a Mississippi Choctaw, you are informed that the proceedings had May 16, 1906, relative to the right of Joseph Moncrief to such identification, were forwarded to the Department June 11, 1906, and up to the present time this office has not been advised of any action thereon.

Respectfully,

Commissioner.

(C O P Y)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Land.
51019-1906.

WASHINGTON.

November 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed letter of June 11, 1906, from Tans Bixby, Commissioner to the Five Civilized Tribes, who refers to the fact that the Department, on February 23, 1905 (I. T. D. 1864-1905), affirmed the decision of the Commission to the Five Civilized Tribes of January 7, 1905, denying the application of Joseph Monerief for enrollment as a citizen by blood and for the enrollment of his wife, Lulu Monerief, as a citizen by intermarriage of the Chectaw Nation.

He also refers to the fact that on February 2, 1906, a motion for rehearing was filed with the department in the matter of this application, and that on March 6, 1906, (I. T. D. 1381, 3126-1906), the Department returned to his office the record in the case with instructions that the principal applicant be given an opportunity to submit testimony to show whether he is the descendant of a patentee under article 14 of the treaty of 1830.

In accordance with these instructions notice was, on April 28, 1906, furnished Joseph Moncrief, his attorneys of record, and the attorneys for the Choctaw and Chickasaw Nations, of the fact that a hearing would be had at the general office of the Commissioner at Muskogee on Wednesday, May 26, 1906, at 9 o'clock A. M.

Mr. Bixby says that on May 18, 1906, proceedings were had in the matter of the application pursuant to the notices mentioned, at which time the testimony of Sarah A. Harlan, Nancy A. Hill and Annie Davis was submitted.

He also says that Sarah A. Harlan testified that she was 77 years of age and a half sister of the applicant, Joseph Moncrief, that she was the daughter of Sampson Moncrief, and Sophia Moncrief, nee Brashears; that Sampson Moncrief was a white man of French descent, who, together with his Indian wife, the mother of the witness, received lands under article 14 of the treaty of 1830; that the land was located between Demopolis and Belmont, Sumter County, Alabama, lying south of the military road and about a mile from the Tombigbee river. She also testified that she received land under article 14 of the treaty, which, prior to her removal to Indian Territory, in 1850, she sold to a white man by the name of May; that her father, Sampson Moncrief, removed to Skullyville County, Choctaw Nation, Indian Territory, in 1855, where, about 1856 (his wife Sophia Moncrief, nee Brashears, having died in 1853), he married Sophia Coins, nee Brashears, the mother of the applicant, Joseph Moncrief.

The Commissioner also finds from the testimony of Mrs. Harlan that Sampson Moncrief had at the time of the treaty of 1830 four children, Susan, over ten, and William, Mary Ann, and Sarah (the witness) under ten years of age, the latter having been born in 1829; that she further testified that Sophia Geins, nee Brashears, the mother of the applicant, formerly resided in Marengo County, Alabama, from which place she removed to the Choctaw Nation with her husband in 1849; that the mother of the applicant was a daughter of Annie Brashears, who was a sister of the witness's mother, and the daughter of Zadeck Brashears, a white man, and Susan Bend, a half blood Choctaw, who received land under article 14 of the treaty of 1830, and that the paternal grandfather was Alexander Brashears who possessed Choctaw and Creek blood in equal degree, and who resided on Susarnehchee Creek with his wife, Annie Brashears.

The Commissioner quotes Nancy A. Hill as having testified that she was 60 years of age and a niece of the applicant; that she was the daughter of Robert and Mary McGarty; that the applicant was the son of Sampson Moncrief and Sophia Geins, nee Brashears; that Sampson Moncrief came to the Indian Territory and settled near Skullyville, Choctaw Nation, and that about a year thereafter he was married at her home near Skullyville to the applicant's mother.

He cites the testimony of Annie Davis as showing that she was 25 years of age, and a half sister of the appli-

cant, both she and the applicant being children of Sophia Geins, nee Brashears, who married Sampson Monerief after his removal to the Choctaw Nation, Indian Territory.

The Commissioner refers to Office letter of February 19, 1906, wherein it was reported that the records of the Office show that one Sampson Monerief, an intermarried citizen of the Choctaw Nation in Alabama in 1830 applied for the benefits of the 14th article of the treaty of that year in behalf of himself and family, which consisted at the time of one child over ten, and three children under ten years of age; that there was patented to him on October 4, 1838, all of section 8, the east half of section 7, the west half of section 9, and the northeast quarter of section 17, township 18 north, range 2 east, Sumter County, Alabama, and that in 1855, he removed with his family to the Choctaw Nation, Indian Territory.

The Commissioner finds from an examination of the records in his office that the name of Alexander Brashears appears on page 18, volume 1 of the printed record of evidence in the case of the Choctaw Nation versus the United States before the Court of Claims in a "Registration of Choctaws as entered by the agent, who wished to become citizens according to the provisions of the treaty of 1830" (Ward's register), wherein it appears that Alexander Brashears was a half blood Creek, and at the time of the treaty had five children over ten and two children under ten years of age, and that the name of Zades Brashears also appears therein as a half breed Indian

with two children under ten years of age.

The Commissioner includes in the record in the case a letter from P. B. Jarman, Judge of Probate, Sumter County, Alabama, addressed to R. B. Coleman, McAlester, Indian Territory and a certificate of P. B. Jarman, relative to the entering of certain land by Sampson Moncrief under the Choctaw treaty of 1830.

Mr. Bixby says that he has carefully considered the original record in the matter of the application for the enrollment of Joseph Moncrief as a citizen by blood and for the enrollment of his wife, Lulu Moncrief, as a citizen by intermarriage of the Choctaw Nation, together with the additional proceedings had in the case in conformity with the Department's instructions of March 6, 1906, and sees no reason why the original decision of the Commission of January 6, 1905, which was affirmed by the Department on February 25, 1905 (I.T.D. 1864-1905), should be disturbed; and that the applicant, Lulu Moncrief, claiming as an intermarried citizen of the Choctaw Nation, could not under the ruling of the Department, acquire any rights as a citizen of the Nation by reason of her marriage to Joseph Moncrief in the event of the identification of Joseph Moncrief as a Mississippi Choctaw.

He further says that the record as now submitted shows that Sampson Moncrief, the father, Alexander Brashears, the grandfather, and Zedec Brashears, the great-grandfather of the applicant, Joseph Moncrief, are identical with the Sampson Moncrief, Alexander Brashears and Zedec Brashears whom the

records in the possession of his office and of this Office show to have been beneficiaries under the 14th article of the Choctaw treaty of September 27, 1830, and who received land under that article.

He expressed himself as also being of the opinion that the applicant, Joseph Monerief, is entitled to be identified as a Mississippi Choctaw, entitled to rights as a descendant of a beneficiary under the provisions of the 14th article of the Choctaw treaty of 1830.

The proof in this case shows that Joseph Monerief is a son of Sampson Monerief, who received a patent for land under the 14th article of the Choctaw treaty of 1830, and of Sophia (Brashears) Monerief, the mother being a daughter of Alexander Brashears who was also a patentee under the provisions of the 14th article of the Choctaw treaty of 1830. Therefore he is descended in both lines from 14th article beneficiaries. He is undoubtedly entitled to identification as a Mississippi Choctaw. The question of his right to enrollment as a citizen by blood is open to various questions on account of his long absence from the nation and because of the fact that his name does not appear on any of the tribal rolls.

I therefore concur in the recommendation of the Commissioner that the original decision of the Commission to the Five Civilized Tribes adverse to him on his application for enrollment as a citizen by blood, and of his wife as an intermarried citizen, be approved, and that the Commissioner's

-7-

decision now rendered in his favor as a Mississippi Choctaw
also be approved.

Very respectfully,

G. F. Larrabee,

Acting Commissioner.

MH-Y.

(COPY)

G. R.

DEPARTMENT OF THE INTERIOR, LLS
WASHINGTON.

I. T. D. 1864-1905.
3186-1906.
23684- "

January 3, 1907..

D. C. 1601.

L. R. S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 11, 1906, you transmitted the remanded record in the matter of the application of Joseph Moncrief for his identification as a Mississippi Choctaw and for the enrollment of his wife, Lulu Moncrief, as a citizen by intermarriage of the Choctaw Nation.

You recommend that the Department adhere to its decision of February 23, 1906 (I.T.D.1864), denying the application of Joseph Moncrief for his enrollment as a citizen by blood and for the enrollment of his wife, Lulu Moncrief, as a citizen by intermarriage of the Choctaw Nation, but that Joseph Moncrief be now identified as a Mississippi Choctaw.

In accordance with your recommendation and that of the Indian Office of November 22, 1906, copy whereof is inclosed for your information, showing that the ancestors of the said Joseph Moncrief were beneficiaries under article 14 of the treaty of 1830, the Department concurs in the above recommen-

tions that Joseph Monerief be now identified as a Mississippi Choctaw, and you are directed to enroll him as such.

You will advise applicant and his attorney of this action.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan,

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 ins. and 5 to Ind. Of.

COPY

Muskogee, Indian Territory, January 9, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith for Departmental approval a schedule of duly identified Mississippi Choctaw Indians, numbered 2512 to 2514 inclusive, who were living on September 25, 1902, the date of the ratification by the citizens of the Choctaw and Chickasaw Nations of the Act of Congress approved July 1, 1902 (32 Stats., 641).

The person whose name appears on this schedule opposite number 2512, William Willis, was denied identification as a Mississippi Choctaw, under the name of William McCommie, by a decision of the Commission to the Five Civilized Tribes of March 15, 1904, which was affirmed by the Department August 11, 1904 (I T D 2244-1904).

The Department, on November 1, 1905 (I T D 2044-1905), forwarded to this office a motion for a rehearing in the Mississippi Choctaw case of William McCommie, in which it was claimed that the applicant's true name is William Willis and that he is the son of an identified full blood Mississippi Choctaw named John Willis, and Mary Willis, an alleged full blood Choctaw Indian.

(2)

The Department, considering that the motion for rehearing and the affidavits attached thereto constituted a prima facie case for investigation, rescinded Departmental decision of August 11, 1904, granted the motion, and directed a rehearing, after due notice to the party and the attorneys for the Choctaw and Chickasaw Nations.

The rehearing had in the case conclusively shows that the applicant is a full blood Mississippi Choctaw and he has accordingly been identified as such under the name of William Willis.

The record in the case with the proceedings had in conformity with the Department's instructions of November 1, 1906, will be made the subject of a separate report.

The person whose name appears upon the schedule herewith transmitted opposite number 2513, Frank Brewer, was the subject of Departmental letter of December 10, 1906 (I T D 14242, 14200-1906), directing his identification as a full blood Mississippi Choctaw.

Joseph Mamerief, whose name appears upon this schedule opposite number 2514, originally made application to the Commission to the Five Civilized Tribes for enrollment as a citizen by blood of the Choctaw Nation, which application was refused by a decision of said Commission of January 7, 1906. This decision was affirmed by Departmental letter of February 23, 1906 (I T D 1664-1906).

The Department, on March 6, 1906 (I T D 1664-1906, 1321, 1324-1906), returned the record in the case to the Commissioner with

(3)

instructions that the applicant be given an opportunity to submit testimony tending to show whether he is the descendant of a patentee under article 14 of the Choctaw treaty of 1830.

Proceedings were had before this office in conformity with the Department's instructions, May 16, 1906, and the record was returned to the Department with the report of this office of June 11, 1906, with the recommendation that the applicant, Joseph Monerief, be identified as a Mississippi Choctaw, as the descendant of a beneficiary under the provisions of the 14th article of the treaty of 1830.

The Department, on January 3, 1907 (I T D 1864-1906, 3186, 23684-1906), concurred in said recommendation and directed the identification of Joseph Monerief as a Mississippi Choctaw. His name is accordingly included in the schedule herewith transmitted.

In view of the provision of the Act of Congress approved April 24, 1906 (34 Stat., 137), limiting the jurisdiction of the Secretary of the Interior to approve the enrollment of citizens of the Five Civilized Tribes, it is respectfully recommended that this schedule receive the earliest possible consideration and action of the Department, in order that the same may be returned to this office and the applicants notified to remove to and establish their residence within the Choctaw-Chickasaw country, Indian Territory,

(4)

so that their names may be included upon a partial roll of Honorary Members to be submitted for Departmental approval prior to March 4, 1907.

Respectfully,

SIGNED *Wm. Bisby.*
Commissioner.

Through the Commissioner
of Indian Affairs.

Enclosures.

MCR-7446.

Muskogee, Indian Territory, January 11, 1907. ' 1

Joseph Moncrief,

Savanna, Indian Territory.

Dear Sir:-

You are hereby notified that the Commissioner to the Five Civilized Tribes on January 9, 1907, placed your name upon a schedule of duly identified Mississippi Choctaws and forwarded the same to the Secretary of the Interior for his approval.

The Act of Congress approved July 1, 1902 (32 Stats., 641), provides -

"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of Section 21, of the Act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

J M - - - - - (2)

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the Tribes affected by this act shall be fully completed on or before the fourth of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for you to secure the benefits accruing to your identification as a Mississippi Choctaw and enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, Indian Territory, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes and your enrollment as a Mississippi Choctaw approved by the Secretary of the Interior prior to March 4, 1907.

The limited time within which this procedure can be accomplished will necessitate your appearing at the Choctaw Land Office at Atoka, Indian Territory, or the Chickasaw Land Office at Ardmore, Indian Territory, with the least possible delay to furnish proper proof of your residence in the Choctaw-Chickasaw country.

Respectfully,

Commissioner.

MCR-7446.

Muskogee, Indian Territory, January 11, 1907.

R. B. Coleman,

Attorney at law,

McAlester, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes on January 9, 1907, placed the name of Joseph Monorief upon a schedule of duly identified Mississippi Choctaws and submitted the same to the Secretary of the Interior for his approval.

The Act of Congress approved July 1, 1902 (32 Stats., 641), provides -

"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

R. B. C. - - - - (2)

Under the provision of law, above quoted, it is necessary for Joseph Moncrief to establish a bona fide residence within the Choctaw-Chickasaw country, Indian Territory, within six months from the date of approval by the Secretary of the Interior of the schedule containing Joseph Moncrief's name.

Your attention is, however, invited to the following provision of the Act of Congress approved April 26, 1906 (34 Stats., 137):

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, Nineteen Hundred and Seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

It is therefore apparent that for Mr. Moncrief to secure the benefits accruing to his identification as a Mississippi Choctaw and enrollment as such, a bona fide residence must be established within the Choctaw-Chickasaw country, Indian Territory, proof of such settlement submitted to the Commissioner to the Five Civilized Tribes and his enrollment as a Mississippi Choctaw approved by the Secretary of the Interior prior to March 4, 1907.

The limited time within which this procedure can be accomplished makes it obligatory upon Joseph Moncrief to establish his residence in the Choctaw-Chickasaw country and submit proof thereof to the Commissioner to the Five Civilized

R. B. C. - - - - - (3)

Tribes with the least possible delay.

It is earnestly requested that compliance with the provision of law in reference to removal and settlement be made at the earliest possible date, and that proof thereof be submitted either to the Choctaw Land Office at Atoka, Indian Territory, or the Chickasaw Land Office at Ardmore, Indian Territory, in order that the name of Joseph Menierief may be placed upon a partial roll of Mississippi Choctaws and forwarded to the Secretary of the Interior for approval prior to March 4, 1907.

Respectfully,

Commissioner.

MCR-7446

Muskogee, Indian Territory, February 2, 1907.

R. B. Coleman,

Attorney at Law,

McAlester, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of January 26, 1906, requesting to be advised the present status of the application of Lou Monorief, wife of Joseph Monorief, for enrollment as a citizen by intermarriage of the Choctaw Nation.

In reply there is enclosed herewith copy of Departmental letter of January 3, 1907, accompanied by the report of the Acting Commissioner of Indian Affairs of November 22, 1906, concurring in the recommendation of the Commissioner to the Five Civilized Tribes of June 11, 1906, that Joseph Monorief be identified as a Mississippi Choctaw, and that his wife, Lulu Monorief, be denied enrollment as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

WLM.
Enc2. 2/1

Commissioner.

except in mind - Eastward.

Miss Johnston H. 1414

cc	R 71116-		100
aa	908		100
cc	R 414		100
Letter to Rept.	3/6/06 - 4/19/06	¹²⁰ ¹²⁰	240
2 Pages Muster Roll - (Affidavit)			100
Letter from CW Dean Rept.	11/28/1855-		50
" to Bay Hitchcock	7/24/05 - 12/4/05	¹²⁰ ⁵⁰	750
Relation	9/28/05 -	¹⁵⁰	150
Motion for rehearing		¹⁰⁰	100
Affidavit	10/9/05 - Cert.	¹⁰⁰ ⁵⁰	150
Letter to Joseph Manning	4/28/06 -	⁸⁰	80
" " R.B. Calman	4/28/06 -	⁸⁰	80
" " Mack + Dean	4/28/06 -	⁸⁰	80
" " Roger Hill	4/28/06 -	⁸⁰	80
" " Wainwright + Hill	4/28/06 -	⁸⁰	80
" " M. Mack + Co.	4/28/06 -	⁹⁰	90
" from Mack + Hill	5/7/06 -	⁴⁰	40
Testimony (14 pages)	5/7/06 -	⁷⁰⁰	700
Letter from Bay	1/3/07	⁸⁰	80
" to Bay of 7 pages	11/22/06	²⁸⁰	280
" " by Bay	6/1/06	²⁴⁰	240
" " R.B. Calman	6/7/06 -	⁴⁰	40
" " "	7/27/06	⁴⁰	40

Letter to R.B. Coleman	5/1/07 ⁴⁰	1.10
" " Seay	11/9/07 ¹⁶⁰	1.60
Applic for Enrollment	no date	1.00
Letter to Joseph Moncrief	11/14/07 ⁸⁰	.80
" " R.B. Coleman	11/14/07 ¹²⁰	1.20
Receipt	6/12/06	.50
Procession 2 pages		1.00

Allat jacket.

Proof of Cont Residence	Jan 31-07-	.50
Inst. Proof of Settlement	3	1.50

Lease-R414

Testimony Joseph Moncrief	3/21/00 - 4 pages	1.60
Appinal	1/16/00 - 4 "	1.60
Marriage License	2 pages	1.00
Affidavit. Sarah Harlin	12/15/99	.50
" " Annie Davis	" "	.50
Pet for Pardon		.50
Testimony Joseph Moncrief	12/13/99	1.00
Letter to Joseph	from Com - 3/7/00	.50

Off	St Louis	1/8/03-	3-0
✓	W.B. Anneswith	✓	5-0
✓	Queen McClinton	1/16/03	5-0
	Discussion, 2 pages -		1-0
	Letter Joseph Mancini	1/7/05 ⁴⁰ - 1/15 ⁵⁰	90
✓	- To McKenna & Ren	✓ ✓	90
✓	- Warrington & Redwin	✓ ✓	90
✓	- Rogan & Hill	✓ ✓	90
✓	- Manus McK & C.	✓	40
✓	- to Secy of Dist	✓	40
✓	- - - from Sarokin	2/17/05-	4-0
✓	- from Acty Secy	2/23/05-	4-0
✓	- To Joseph Mancini	3/9/05-	4-0
✓	- McK & Ren	✓	4-0
✓	- Warrington & Redwin	✓	4-0
✓	- Rogan & Hill	3/23/05-	4-0
✓	- Manus McK & C.	3/9/05-	4-0
✓	- Joseph Mancini	7/17/02 - (2 pages)	2-0
✓	- Warrington & Redwin	✓	80
✓	- W.G. Hallen	1/12/03.	40
✓	- Rogan & Hill	1/22/03	40
✓	- Joseph Mancini	1/28/03.	1.60

✓ ✓	Sales to Rogan + Hill	2/4/03-	40
- ✓	W. Rogan	2/12/03	40
- ✓	Joseph Manning	9/16/03	40
✓ ✓	Max + Dean	5/21/04	40
✓ ✓	Joseph Manning	4/7/05	40
✓ ✓	-	4/15/05	40
✓ ✓	R. B. Coleman	8/24/05	80
✓ ✓	Seay of Int	6/11/06	240
✓ -	Joseph Manning	4/28/06	80
- -	R. B. Coleman	-	80
✓ -	Max + Dean	-	80
✓ -	Rogan + Hill	✓	80
- ✓	Warrington + Redwin	✓	80
✓ ✓	M. M. M. & C.	-	80

7150

END
OF
ROLL

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