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APPLICATIONS FOR ENROLLMENT OF THE

COMMISSION TO THE FIVE CIVILIZED TRIBES

1898 - 1914

ROLL 310

CHEROKEE D298 - D388

THE NATIONAL ARCHIVES
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WASHINGTON: 1983

Cher D 298

EXECUTED A S TO SURGEON, ALEXANDER W. ARMSTRONG.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., Sept. 14, 1900.

In the matter of the application of Mary E. Armstrong for the enrollment of herself, husband and child as Cherokee citizens, being sworn and examined by Commissioner Breckinridge she testified as follows:

Q What is your full name? A Mary E. Armstrong.
Q How old are you? A Thirty years old.
Q What is your post-office? A Vinita.
Q In what District do you live? A Cooweescoowee.
Q The idea you want to have put on the roll? A Myself, husband and boy.
Q Where is your husband? A He is right back here.
Q Do you apply for your self as a Cherokee by blood? A Yes sir.
Q Is your husband a Cherokee by blood? A No sir.
Q How long have you lived in the Cherokee Nation? A Seven years
Q Were you admitted by the Cherokee Commission? A Yes sir, I was single then. (Produces papers.)
Com'r Breckinridge: The applicant presents a duly authenticated certificate of admission to Cherokee citizenship showing that on the 8th of July 1887 certain persons were admitted to citizenship by the Cherokee Commission, and among them appears the name of Mary E Rogers.
Q Was that your maiden name? A Yes sir.
Q Whenwere you married? A Which 7th of September 1896.
(Produces copy of marriage certificate.)
Com'r Breckinridge: The applicant presents a duly authenticated copy of the records of Cooweescoowee District, giving the license and certificate of her marriage on the 7th of September 1896, to Alexander W. Armstrong; this is filed herewith.
Q You were admitted to citizenship in 1887 and you say you have lived here seven years? A Yes sir. I was admitted to citizenship when that certificate was made.
Note: Applicant is advised that the certificate was made in 1896.
Com'r Breckinridge: You made application in 1887, and the signature of the Chairman of is attached on the 8th September 1888; you admission date, I believe, from the date of your application.
Q There are twelve or thirteen years that have elapsed since the date of your admission, where were you the first six years after you were admitted? A I was in Georgia.
Q You didn't come here? A No sir.
Q You didn't come here until about seven years ago? A Yes sir.
Q That is a certificate of re-admission, and no conditions attached in regard to residence? A No sir.
Q How old is your husband? A Forty-nine years old.
Q Give me the name of your child? A Harold E. Armstrong. Three years old the 21st of last May.
1896 roll Page 193 #145 Mary E. Armstrong. Cooweescoowee;
1896 roll Page 293 #29 Alex W. Armstrong. Cooweescoowee;

Examined by Cherokee Nation attorney J.J. Vaught:
Q Were you admitted in 1887? A Yes sir.
Q Did you immediately thereafter return to the Cherokee Nation? Moved there in 1893 I believe it was,- when I became of age.
Q That's six years after your admission? A Yes sir.
Q Did you make any attempt in any manner to try to come to the Cherokee Nation prior to 1893? A Yes sir, I wanted to come all my life.
Q But you didn't try to come? A Yes, but I wasn't able.
Q You came here as soon as you understood that they was making a roll for the purpose of paying out the Strip money? A Yes sir.

That wasn't my intention. I came because I thought I had a right and I couldn't get it if I stayed since I was country.
Q. Why did you not come here before you came? A. Because they came said the country wasn't healthy, and I didn't have any money to come on, and I wasn't old enough to have the money to come on.
Q. Whatever your object in acquiring your citizenship here, was it not for the purpose of making a permanent home here? A. Certainly it was.
Q. You were married then when you were admitted? A. That's what that paper says about it.
Q. You were admitted in 1887, and you failed to return until 1893, why didn't you come when you was immediately of age? A. No reply
Char. Nation, through its attorney, has withdrawn to make protest against the enrollment of this applicant, and did not judgment suspended.

By Com'r Breckinridge:
Q. Who came with you when you came in 1893? A. My mother and one sister.
Q. Have they continued to live in the Cherokee Nation? A. Yes sir.
Q. You all came for the purpose of making it your permanent home did you? A. Yes sir.
Q. And have all of you continued to live here ever since 1893? when you came? A. Yes sir.
Q. You have made it your permanent home? A. Yes sir, I never had a home until I came here.
Q. When did your father die? A. He is not dead.
Q. Where is he? A. He is at home.
Q. In the Territory? A. Yes sir.
Q. He came with you in 1893? A. Yes sir, - long before us.
Q. When did he come here? A. He came here two years before
Q. Did he come here for the purpose of looking out for a home?
A. Yes sir came here and made us a home and then we came to it.
Q. As soon as he got ready for you? A. Yes sir.
Q. And you have been living here ever since? A. Yes sir.

Com'r Breckinridge: The applicant name by the certificate of admission cited in the testimony that she was duly admitted to Cherokee citizenship the 6th of September 1888, the petition being filed July 8th, 1887; she and her mother did not come to the Nation from Georgia until 1893; her father came here two years before that and provided a home for them, and they have lived in the Cherokee Nation ever since they came here in 1893. The Cherokee Representative present desires to have considered section 14 of the Cherokee Act providing for the appointment of a Commission to try and determine applicant to Cherokee citizenship, and also section 2, article 1, of the Constitution of the Cherokee Nation. Decision will be suspended for the present in this case, until a more convenient occasion in which the law is to be consulted and considered in connection with the facts, and therefore the application at present will be placed upon a doubtful card; she is identified on the roll of 1896 as a native Cherokee, and her marriage license and certificate exhibited, explain her change of name. Her child Harold S. Armstrong will be listed the same as his mother when she provides the Commission with proper certificate of birth of this child.

As for the application for her husband, he is identified on the roll of 1896, but as shown by a copy of his marriage license and certificate filed herewith, he was not married until 1896, too late, under the Cherokee law, for him to acquire rights of citizenship therefore the application for her husband is rejected.

M.D. Green, being first duly sworn states that as stenographer to The Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 18 day of September 1900

C. R. Breckinridge
Commr

D. 298.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of Mary E. Armstrong for the enrollment of herself and child as citizens of the Cherokee Nation.

Applicant present in person.
Cherokee Nation represented by W. W. Hastings.

COMMISSION: There is offered in evidence a duly executed affidavit as to the birth of Harold S. Armstrong, the infant son of Alex W. Armstrong and Mary E. Armstrong. The same being in due form it will be filed.

COMMISSION: Is there any other statement you want to make relative to your enrollment? A Why an affidavit from my father. I sent to Tahlequah and I couldn't get the paper. Here is a——
Q Well, this is merely a certificate certifying that you were admitted to citizenship at the same time that he was; that's already shown in the record? A Yes, sir.
Q The Commission can't file affidavits. It is returned to the applicant. Do you want to make any other statement relative to your case? A No, sir, you have all my evidence.
Q You submit it to the Commission for final consideration? A Yes, sir.

The applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for a decision based upon the evidence now on file.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the foregoing case, and that the above is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 26th day of February, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 1902
ACTING CHAIRMAN.

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N.A.L.
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DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Mary E. Armstrong for the enrollment of herself and her minor child Harold E., as citizens of the Cherokee Nation.

On the 14th day of September 1900, Mary E. Armstrong appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of herself and her minor child, as citizens of the Cherokee Nation. The application originally included the husband of Mary E. Armstrong, but as he has been otherwise classified the matter of his enrollment is not embraced in this decision nor considered at this time.

The names of Mary E. Armstrong and her child were placed upon a "Doubtful" card at the conclusion of the testimony taken on the date of her application. Further evidence has been submitted and the case has been closed.

It appears from the evidence in this case that Mary E. Armstrong, 30 years of age at the time of her application, was admitted as a citizen of the Cherokee Nation by the Commission on Citizenship of the Cherokee Nation, on the 4th day of September 1896 under the name of Mary E. Rogers, her maiden name. A copy of the record of the re-admission of the applicant is attached hereto.

It further appears from the evidence that the applicant at the time of her application had been living for seven years in the Cherokee Nation. Prior to the time of her re-admission to citizenship and for five years thereafter, the applicant was living in Georgia. The explanation made by the applicant , for not earlier coming to the Cherokee Nation was that she did not have the means to come and was not old enough to earn the means, that she had always wanted to come to the Cherokee Nation but had been unable to do so.

It further appears from the record in this case that the father of the applicant came to the Cherokee Nation two years prior to the applicant's coming with her mother and sister, in order to provide a home for his family in the Cherokee Nation. The evidence also shows that the applicant has been living in the Cherokee Nation ever since 1893.

It further appears from the evidence that the applicant was married on the 1st day of September 1896 to A. W. Armstrong. A copy of the Cherokee marriage license and certificate of marriage is attached hereto.

The applicant is identified on the Cherokee Census roll of 1896.

On the 21st day of May 1897 a male child, Harold S. Armstrong by name, was born to the applicant and is identified by affidavit of birth on file in the office of this Commission.

In making rolls of citizens of the Cherokee Nation this Commission is governed by the provisions of the Act of Congress approved June 28, 1898. (30 Stats. 495.)

D E C I S I O N.

---oOo---

In view of the facts and the law in this case it is considered by the Commission that Mary E. Armstrong and her minor child Harold S. Armstrong, are entitled to be enrolled as citizens by blood of the Cherokee Nation, and it is therefore so ordered.

Commissioners.

Dated at Muskogee, Indian Territory.

MAY 20 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

D- 298.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith, please find a copy of the decision of the Commission rendered May 20, 1902, in the matter of the application of Mary E. Armstrong et al. for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above named persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Enc. D - 298.

Mary E. Armstrong et al.

Transferred to Cherokee 9548.

Cher D 299

Q Give me the names of the children? A Georgia, a girl, five years old.

Q What is the name of the next one? A Virginia, nineteen [illegible]

Q [illegible] that you and your family did not come [illegible] to the [illegible] between 1871 and 18[illegible]

A [illegible] and we was at [illegible] property was [illegible] in a condition that [illegible] for [illegible] was [illegible] and was [illegible] such [illegible] an equal share in it.

[illegible]

[illegible] for the purpose of making [illegible]

[illegible]

[illegible] notes thereof.

Subscribed & sworn to before me this 18 Sept. 1900

Commissioner.

POOR ORIGINAL -
BEST AVAILABLE COPY

File with case C.D.#299

Supl.-C.D.#294.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of CLEMENTINE W. SHUTT as a citizen of the Cherokee Nation:

Appearances:
J. B. Davenport, Vinita, I. T., Attorney for applicant
W. W. Hastings, Cherokee representative.

Commission of Mr. Davenport: Is there any statement you desire to make relative to this case?

Mr. Davenport: Yes, sir; I want to call the attention of the Commission to the testimony on file which shows that the applicant, Clementine Shutt, was regularly admitted by an Act of the Cherokee Council or Commission, I am not positive which, and that the other applicants, her son John Shutt, and her daughter Bessie, were minors at the time, and the proof shows they all removed to the Cherokee Nation and took up their residence prior to the passage of the Act of the National Council of December 4, 1894.

Mr. Hastings: The records in this case show that these parties were admitted in 1870, and subsequent to that time they lived in the State of Missouri until about the year 1891, something like 20 or 21 years before they removed to and permanently located in the Cherokee Nation.

Commission of Mr. Davenport: Do you submit this case to the Commission for final consideration? A Yes, sir.

Commission: The attorney for the applicant and the attorney for the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now on file.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings had in this case on the above date, and that the above and foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this February 24, 1902.

Commissioner.

Supl.-C.D.#299.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL In the matter of the enrollment of JOHN W. SHUTT, ET AL., as citizens of the Cherokee Nation:

Appearances:
J. S. Davenport, Vinita, I.T., Attorney for Applicants;
Mr. W. W. Hastings, Cherokee Representative.

Commission: It is directed that a copy of the statement of the attorney in the case of Clementine W. Shutt, whose name appears upon Card D.#294, be filed with and made a part of the record in the case of her son, John W. Shutt, D.#299.

Commission: The attorney for the applicant and attorney for the Cherokee Nation present submit this case to the Commission and the same is ordered closed and reported for final decision based upon the evidence now on file.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in this case on this day, and that the above and foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this February 27, 1902.

Commissioner.

[illegible]-C.O.[illegible].

[illegible] of the [illegible]
[illegible] to the [illegible] United States,
[illegible], I. T., [illegible] 4th, 1902.

[illegible] of the proclamation of JOHN W. [illegible]
[illegible], as citizens [illegible] Cherokee Nation:

[illegible]

[illegible], Vinita, I.T., Attorney for [illegible];
[illegible], Muskogee, Creekes Representative.

[illegible] stated that a copy of the statement
[illegible] the attorney in [illegible] of Clearwater v. [illegible],
[illegible] upon [illegible] be filed with and made a part of the
[illegible] in the case of [illegible] John T. Rogers, D.4[illegible].

Conclusion: [illegible] for the plaintiff [illegible] attorney
[illegible] the [illegible] submit this cause [illegible] the [illegible]
[illegible] and the [illegible] evidence closed and reports for final
[illegible] based upon the evidence now on file.

[illegible]

[illegible] D. Foster, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in this case on the day, and that the above and foregoing is a true and complete transcript of his stenographic notes thereof.

[illegible]

[illegible] and sworn to before me this [illegible] 24, 1902.

[illegible]

Commissioner.

MAR 24 1902

Cherokee D 299.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 28, 1902.

In the matter of the application of John W. Shutt for the enrollment of himself and his two minor children, Georgia and Virginia Shutt, as citizens by blood, and for the enrollment of his wife, Minnie Shutt, as a citizen by intermarriage, of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

JOHN W. SHUTT, being sworn, testified as follows:

By the Commission,

Q What's your nmae, please? A J. W. Shutt, John.
Q How old are you, Mr. Shutt? A Thirty-three years old.
Q Whatis your postoffice address? A Thirty-two years old, will be thirty-three next. Pryor Creek, Indian Territory.
Q You're an applicant for enrollment as a citizen by blood, are you, Mr. Shutt? A Yes, sir.
Q What's your wife's name? A Minnie.
Q She is a white woman? A Yes, sir.
Q She an applicant for enrollment as a citizen by intermarriage of the Cherokee Nation? A Yes, sir.
Q When were you married to your wife, Minnie? A Spring of '93.
Q Were you ever married prior to your marriage to this wife?
A No, sir.
Q Was she ever married prior to her marriage to you? A No, sir.
Q You and she lived together since your marriage up to the present time? A Yes, sir.
Q Never been separated? A No, sir.
Q Were you and she livingtogether on the first day of September, 1902, as husband and wife? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A Twelve yesra.
Q All the time for the last twelve years? A Yes, sir.
Q Has your wife lived in the Cherokee Nation ever since her marriage to you up to the present time? A Yes, sir.
Q These children, Georgia and Virginia, your children by your wife, Minnie? A Yes, sir.
Q Both living? A Yes, sir.
Q Lived all their lives in the Cherokee Nation? A Yes, sir.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 3rd day of December, 1902.

Notary Public.

Cherokee D-289.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of John W. Shutt for the enrollment of himself and his two minor children, Georgia and Virginia Shutt, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Minnie Shutt, as a citizen by intermarriage of said Nation.

D E C I S I O N.

The record in this case shows that on September 14, 1900, John W. Shutt appeared before the Commission at Pryor Creek, Indian Territory, and made personal application for the enrollment of himself and his two minor children, Georgia and Virginia Shutt, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Minnie Shutt, as a citizen by intermarriage of said Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 24, and October 28, 1902.

The evidence shows that the applicant, John W. Shutt, was born in 1870, and that his mother, Clementine Shutt, and her children were admitted to citizenship in the Cherokee Nation by an Act of the Cherokee National Council approved November 30, 1872; and that John W. Shutt was one of the children of said Clementine Shutt, and was a minor at the time of her admission.

It appears that on May 1, 1894, John W. Shutt was lawfully married to one, Minnie Burks, a white woman, and that the said minor applicants are the issue of such marriage.

It further appears that the said John W., Minnie and Georgia Shutt are identified on the 1896 census roll of the Cherokee Nation. The said Virginia Shutt is too young to appear on any tribal roll, but is identified by birth affidavit made a part of the record herein.

The evidence further shows that the said John W. Shutt has resided in the Cherokee Nation continuously from 1888 up to and including the date of the application herein; and that he and his said wife have lived together continuously as husband and wife, in said Nation, from the date of their marriage in 1894 up to and including September 1, 1902. The said minor children have resided in said Nation all their lives.

Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), provides for the enrollment of all persons now

living whose names are found upon the last authenticated roll, and their descendants born since the date of said roll.

"And all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted. . ."

It is, therefore, the opinion of this Commission that John W. Shutt, Georgia Shutt and Virginia Shutt should be enrolled as citizens by blood of the Cherokee Nation, and that Minnie Shutt should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Acting Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this FEB -7 1903

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-299

Muskogee, Indian Territory, February 7, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 2, 1903, granting the application of John W. Shutt for the enrollment of himself and his two minor children, Georgia and Virginia Shutt, as citizens by blood, and for the enrollment of his wife, Minnie Shutt, as a citizen by intermarriage, of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. M-924

IN THE MATTER OF THE APPLICATION OF

John W. Shutt Jr.

FOR ENROLLMENT AS

CHEROKEE CITIZEN.

A. Original testimony - September 4. 1900
B. Memo of application - " 14, 1900
C. Marriage Certificate
D. Birth affidavit - Virginia Shutt
E. Certified Copy of record of adoption
F. Notice of final consideration

G. Supplemental testimony and order closing testimony in 1294.
H. Order closing testimony, Feb. 24, 1902

Cher D 300

Supplemental--D.300.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Claremore, I.T. November 12th, 1900.

SUPPLEMENTAL PROCEEDINGS IN THE MATTER OF THE APPLICATION OF FANNIE E HAMPTON, FOR THE ENROLLMENT OF HERSELF AS A CHEROKEE CITIZEN----D Card 300.

Ocoola Allen, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Ocoola Allen.
Q For whom do you apply for enrollment? A Nancy E. Hampton.
Q How old is she? A She is fifteen.
Q What is her father's name? A Will Hampton.
Q Is he living? A No, sir.
Q What is the name of her mother. A Nan.
Q Is she living? A No, sir.
Q Are her parents' names on the roll of 1880? A No, sir.
Q Is she any relation to you? A Yes, sir.
Q What? A First Cousin.
Q Do you know on oath that the Nancie E. Hampton mentioned in this certificate of admission is the said Nancie E. Hampton for whom you apply? A Yes, sir.

The applicant presents a certified copy of an act admitting persons therein mentioned to Cherokee citizenship, said Act having been signed and approved by J. B. Mayes, Principal Chief, on the 1st day of February 1888; the correctness of said copy being certified to by T. M. Alberty, said copy also having been filed in the case of Ocoola Allen, Card D.735. Among the persons admitted in said act is found the name of Fannie E. Hampton. Satisfactory proof as to her residence has been made. From the testimony taken in her case, D. Card 300, the Representatives of the Cherokee Nation also being satisfied that the name of Nancie E. Hampton, appearing in the said certificate of admission, is the identical person for whom the applicant applies, and her name is found on D. Card 300; Consequently, it would appear that the name of Nancie E. Hampton should be placed on a regular card instead of a doubtful card.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

R R Francis

Subscribed and sworn to before me this 12th day of November A. D. 1900.

T B Needles

Commissioner.

D 300

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
NOV 12 1900

ACTING CHAIRMAN.

Supl.-C.D.#300.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of FANNIE HAMPTON as a citizen of the Cherokee Nation;

Applicant was notified by registered letter February 6, 1902, that her case would be taken up for final consideration by the Commission on the 24th day of February, 1902, and that she could on said date appear in person or by attorney and introduce any further testimony affecting her case. She has been called three times and fails to respond either in person or by attorney and the case is ordered closed and reported to the Commission for final decision based on the evidence now filed.

Commissioner.

J.O.R.

8 Before the Commission to the Five Civilized Tribes, Muscogee, I.T.

In the matter of the application of Fannie Hampton for the enrollment of herself.

The testimony in this case shows that the applicant was admitted to Cherokee citizenship in February 1888 by the National Council of the Cherokee Nation; that at the time of the admission of herself to citizenship, she was residing in the Cherokee Nation with her grandmother Mrs. Beck; that thereafter her grandmother, Mrs. Beck died and that the aunt of applicant, Mrs. Ward, who lived in Tahlequah District Cherokee Nation took charge of applicant by taking out letters of guardianship under the District Judge of Tahlequah District, Judge Shirley; that thereafter, the applicant and her sister, now Mrs. Zoe D. Cannon, were placed in the Cherokee Orphan Asylum as orphans and minors; that thereafter the guardian of applicant, Mrs. Martha Ward moved to the Choctaw Nation and that the applicant has been with said guardian while not in school; that the applicant, who is still a minor, now resides in the Cherokee Nation.

A R G U M E N T.

The contention of the applicant is that she is a Cherokee indian and has been admitted to Cherokee citizenship as such; that she has been enrolled on all of the rolls since her admission as a Cherokee citizen.

Neither the Guardian nor the applicant during her minority could change her domicile before she reached her majority. The testimony shows that the applicant is yet a minor.

Van Matre vs Sankey. 39 American State Reports. Page 196. "Domicile"- "An infant cannot of its own volition change its domicile."

Cherokee D. 300.

In the matter of the application of Fannie Hampton for the enrollment of herself.

- - - - - : - - -

Brief and Argument.

- - - - - : - - -

S. F. Parks.

Attorney for applicant.

Senate Bill # 54. Passed by the National Council November 28th. 1894. "An Act requiring persons readmitted to citizenship in the Cherokee Nation, to locate within six months"

"Be it Enacted by the National Council that all persons who have been or may hereafter be re-admitted to citizenship in the Cherokee Nation, are hereby required to permanently locate in the limits of the Cherokee Nation within six months from the passage of this Act or from the date of readmission or no rights whatever shall accrue to such persons by reason of such readmission, Provided that nothing in this Act shall bar minors and orphans."

By the very terms of this Act, which would be applicable in this case, nothing could be done that will be prejudicial to the interests of the applicant.

The applicant could do nothing that would work a forfeiture of her rights as a citizen during her minority.

All of the belongings of the applicant, which was and is an undivided interest in an improvement upon the Public Domain of the Cherokee Nation, are still in the Cherokee Nation and could not be taken away.

The testimony shows that she is now living in the Cherokee Nation and that this is all the home she ever had or claimed.

Respectfully Submitted.

S J Parks

Attorney for applicant.

C D 300

H. A. L.
2812

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Fannie Hampton, as a citizen of the Cherokee Nation.

On the 14th day of September, 1900 J. F. Thompson, Superintendent of the Cherokee Orphan Asylum, appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of Fannie Hampton as a citizen of the Cherokee Nation.

At the conclusion of the testimony taken at that time the name of Fannie Hampton was placed upon a "Doubtful" card. Further evidence has been submitted and the case has been closed.

It appears from the evidence in this case that Fannie Hampton, 16 years of age at the time of the application, was an orphan. It also appears that she had been an inmate of the Orphan Asylum of the Choctaw Nation but had come to the Orphan Asylum of the Cherokee Nation.

The field decision states that satisfactory proof as to her residence has been submitted.

The name of Fannie Hampton appears upon the orphan roll of the Cherokee census roll of 1896, having been enrolled from Saline District.

It further appears from the record in this case that Fannie Hampton was admitted, with others, by an Act of the National Council of the Cherokee Nation, approved February 1st, 1888, to all the rights and privileges of Cherokee citizenship by blood, her name appearing in that Act as "Fannie E. Hamton."

In making rolls of citizens of the Cherokee Nation this Commission is governed by the provisions of the Act of Congress approved June 28, 1898, (30 Stats., 495)

D E C I S I O N.

In view of the law and the facts in this case it is considered by the Commission that Fannie Hampton is entitled to be enrolled as a citizen, by blood, of the Cherokee Nation and it is therefore so ordered.

Commissioners.

Dated at Muskogee, Indian Territory,
MAY 27 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes rendered May 27th, in the matter of the application of J. F. Thompson for the enrollment of Fannie Hampton as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of said person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. D-300.

CHEROKEE 27300

Fannie Hampton

Transferred to Cherokee 9549.

Cher D 301

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
PRYOR CREEK, I.T., SEPTEMBER 14, 1900.

In the matter of the application of John Bird Delay for the enrollment of himself and two children as citizens of the Cherokee Nation; said Delay being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your full name? A John Bird Delay.
Q What is your age? A 33.
Q What is your post office? A Pryor Creek.
Q What is your district? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself and two children.
Q Do you apply for yourself as a Cherokee by blood? A no, sir, adopted:
Q Have you a certificate of marriage and license? A Yes, sir.

Com'r Breckinridge:--The applicant presents a marriage license issued by the Clerk of Cooweescoowee district on November, 25, 1893, authorizing his marriage of Miss Alice T. Ingram, a cherokee citizen. The ceremony was performed on the 30th day of November, the same year, by the Reverend Andrew Jacks. These papers are filed herewith.

Q Is your wife alive or dead? A Dead.
Q When did she die? A First day of May.
Q You have never married since her death? A No, sir.
Q Where was your wife enrolled in 1880? A Talequah.
Q Was she an admitted citizen? A I think so.
Q Have you a certificate of her admission? A No, sir.
Q Was not your wife admitted as a North Carolina Cherokee in October 1, 1881? The record here in the possession of the Cherokee Representatives, shows that she was admitted as Alice T. Ingram. She is there identified with the balance of her family.
Q What district were you in in 1880? A Cooweescoowee.
Q Give me the name of your children? A Alberty Ingram Delay
Q How old is that child? Five.
Q Tye next child? A Clara C.
Q How old is that child? A Three years old.
Q

1881 enrollment; page 301, #278, Bird Delay, Cooweescoowee.
1896 enrollment; page 141, #1275, Alice T. Delay, "
1896 enrollment; page 14, #1274, Albert Delay, "

Q These children both living now are they? A Yes, sir.
Q You and your wife lived together as husband and wife from your marriage until her death? A Yes, sir.
Q And in the Cherokee Nation? A Yes, sir.

Com'r Breckinridge:--The applicant applies for the enrollment, of himself and two children: He is identified on the roll of 1896, along with his deceased wife; she being identified there as a native Cherokee. He was married to her, as shown by the accompanying marriage license and certificate, in accordance with Cherokee law, on November 3, 1893. He has never re-married since his wife's death, which occurred within the present year. It appears that the applicant's wife is an admitted Cherokee, being on the North Carolina

roll, October 22, 1881. He is desired to supply the Commission with an official copy of her status in that regard. For the present his application will be placed upon a doubtful card to await that evidence. His child Albert J, is identified with his parents on the roll on 1896. He is living now, and he will be listed with his father. ~~Why~~ the fatherwill be listed as a Cherokee by adoption and the child is a Cherokee by blood. When the Commission is supplied with a duly authenticated certificate of the birth of the child Carrie M., it will also be placed upon the doubtful card as a Cherokee by blod.

---oooOOOooo---

J.O.Robson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony andproceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J.O. Robson

Subscribed and sworn to before me this 18th day of September, 1900.

C. A. Bruce
Commissioner.

D. 501.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1903.

In the matter of the application of John B. Foley for the enrollment of himself and children as citizens of the Cherokee Nation.

Applicant present in person.
Cherokee Nation represented by W. W. Hastings.

COMMISSION: You submit this case to the Commission for final consideration?
Applicant: Yes, sir.
COMMISSION: The applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for a decision based upon the evidence now filed.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 28th day of February, 1903.

Commissioner.

9 D.301

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 21 1902
ACTING CHAIRMAN

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

T.H.L.

In the matter of the application for the enrollment of John B. Delay as a citizen by intermarriage and for the enrollment of his two minor children, Albert I., and Clara C. Delay, as citizens by blood, of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 14, 1900, John B. Delay appeared before the Commission at Pryor Creek, Indian Territory, and made application for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his two minor children, Albert I., and Clara C. Delay as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 24, 1902.

The evidence shows that the said John B. Delay, a white man, and Alice T. Ingram, a Cherokee by blood, who was admitted as a North Carolina Cherokee to citizenship in the Cherokee Nation, under an Act of the National Council of the Cherokee Nation, approved December 3, 1880, were lawfully married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, on November 30, 1893. The said John B. Delay and his son, Albert I. Delay, by his wife, Alice Delay, are identified on the Cherokee census roll of 1896. The other child, Clara C. Delay, was born September 12, 1897 to John B. Delay and his wife, Alice Delay, and proper proof of her birth has been furnished this Commission.

The evidence further shows that the said John Delay lived with his wife in the Cherokee Nation from the time of his marriage until her death, in 1900, and that he was a resident of said Nation at the date of the application for his enrollment. The said John B. Delay has not married since the death of his wife, Alice T. Delay.

It is, therefore, the opinion of this Commission that John B. Delay should be enrolled as a citizen by intermarriage, and that Albert I. Delay and Clara C. Delay, should be enrolled as citizens by blood, of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

T. D. Buckner
Commissioner.

Dated at Muskogee, Indian Territory,

this AUG 19 1902

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 7th, 1902.

In the matter of the application of John B. Delay for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of his children, Albert I. and Clara C. Delay, as citizens by blood of the Cherokee Nation.

Supplemental to D-301.

Appli cant appears in person.
Cherokee Nation by J. C. Starr.

JOHN B. DELAY, being duly sworn, testified as follows:
Examination by the Commission.

Q. State your full name? A. John Bird Delay.
Q. How old are you? A. About 34.
Q. What is your post office? A. Prior Creek.
Q. You are a white man, are you? A. Yes, sir.
Q. Are you the same John B/ Delay who made application on September 14th, 1900, to be enrolled as a Cherokee citizen by intermarriage? A. Yes, sir.
Q. What is the name of the wife through whom you claim citizenship?
A. Alice T.
Q. Alice T. what? A. Ingram.
Q. Is she a Cherokee by blood? A. Yes, sir.
Q. How long has she lived in the Cherokee Nation? A. Ever since eighty, I thinki eighty or eighty-one. I ain't positive.
Q. When were you married to her? A. '93.
Q. Is she your first wife? A. Yes, sir.
Q. Are you her first husband? A. Yes, sir.
Q. Neither of you ever been married before? A. No, sir.
Q. Did you live with her since you were married? A. Yes, sir; up to the time she died. She has been dead pretty near 3 years.
Q. Did you live with her up until the time she died? A. Yes, sir.
Q. Have you married since her death? A. No, sir.
Q. Living in the Cherokee Nation since your wife died? A. Yes, sir.
Q. How many children have you? A. two.
Q. They are living with you, are they? A. Yes, sir.
Q. Lived in the Cherokee Nation all their lives? A. Yes, sir.

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Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 15th day of November, 1908.

B C Jones
Notary Public.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee D 301.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, August 19, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 19, 1902, granting the application of John B. Delay for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his two children, Albert I. and Clara C. Delay, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Tams Bixby

Acting Chairman.

Enc. C. No. 16.

D 301

IN THE MATTER OF THE APPLICATION OF

John B. Delay et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A - Original testimony - September 14. 1900
B - Memo of application - " 14. 1900
C - Marriage License and Certificate
D - Certificate of identity as N. C. Cherokee
E - Birth affidavit - Clara C. Delay
F - Notice of final concluded
G - Order closing testimony 2/24/02

Cher D 302

Department of the Interior,
[illegible]
[illegible], D. C., [illegible], 1937.

[illegible]

Bruce G. Jones

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., October 16, 1909.

In the matter of the application for the enrollment of Georgianna Elliott as a Cherokee by blood.

Additional testimony in the application for the enrollment of Bertha T. Hogan, Card D-502.

Edwin E. Hiatt, being sworn and examined by Commissioner Needles, testified as follows:

(Edwin E. Hiatt presents letters of guardianship for the said Bertha Tina Hogan, and also for George Elliott, a person of unsound mind.)

Q How old is Bertha T. Hogan? A 10 years old.

Q How old is Georgianna Elliott? A About 47 years old I think.

Q What is the name of the father of Bertha T. Hogan? A I don't know

Q What is the name of her mother? A Georgianna Hogan, it is Georgianna Elliott now.

(Georgianna Elliott on 1880 roll, page 212, No. 1507, Georgianna Hogan, Goweesoowee district; on 1896 roll, page 1298, No. 8, Georgianna Hogan, Tahlequah district.)

Q How does Georgianna Hogan's name happen to be Georgianna Elliott?

A She married a man named John Elliott.

Q Is he living? A I understand he is living.

(Bertha T. Hogan enrolled on Card D-502, 1896 roll.)

The name of Georgianna Elliott is found upon the authenticated roll of 1880 as well as the census roll of 1896 as Georgianna Hogan, she is a person of unsound mind and is not present, but she being duly identified, and having made satisfactory proof as to her residence, she will be duly listed for enrollment as a Cherokee citizen by blood.

The testimony in this case as to Bertha Tina Hogan will be filed with D Card No. 502, she having been enrolled upon a doubtful card.

Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 17th of October, 1909.

Commissioner.

CHEROKEE D 302

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Bertha T. Hogan, for enrollment as a Cherokee citizen.

On the 14th day of September, 1900, J. F. Thompson appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of Bertha T. Hogan as a citizen by blood of the Cherokee Nation.

At the conclusion of the evidence she was placed upon a "Doubtful" card awaiting further evidence of her citizenship.

On the 16th day of October, 1900, Edwin Z. Hiatt, appeared before the Commission and made application to have Bertha T. Hogan enrolled as a Cherokee citizen by blood.

D E C I S I O N.

--oOo--

Edwin Z.Hiatt is shown by the evidence to be the duly appointed guardian for Bertha T. Hogan. It appears that Bertha T. Hogan is the daughter of Georgianna Elliott, nee Hogan, who is identified on the authenticated tribal roll of 1880. Bertha T. Hogan is on the Cherokee Census roll of 1896, and the evidence shows that she is a resident of the Cherokee Nation.

In making rolls of citizenship of the Cherokee Nation this Commission is governed by the following provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495);

"That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been

lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

In view of the facts and the law in this case it is considered that Bertha T. Hogan is entitled to be enrolled as a citizen by blood of the Cherokee Nation, and it is so ordered.

Commissioners

Dated at Muskogee, Indian Territory,

MAY 27 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

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

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes rendered May 27th, in the matter of the application of J. F. Thompson for the enrollment of Bertha F. Hogan as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of said person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. D-502.

N. 302

IN THE MATTER OF THE APPLICATION OF

Bertha E. Hogan

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 14. 1900
B. Mem. of application " 14. 1900
C. Additional testimony - October 16. 1900

Cancelled and transferred to Land Card No. 9511

Enrolled

Cher D 303

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Pryor Creek, I.T. September 14 1900.

IN THE MATTER OF THE APPLICATION OF FLORENCE HENRY FOR THE ENROLLMENT OF HERSELF AND THREE CHILDREN AS CHEROKEE CITIZENS.

The said Florence Henry, being duly sworn by Commissioner T. B. Needles, testified as follows:

Question. What is your name? A Florence Henry.
Q What is your age? A Twenty seven.
Q What is your post office address? A Adair.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation?
A Yes, sir; I am an adopted citizen.
Q That is, a citizen by intermarriage? A Yes, sir.
Q For whom do you apply? A For myself and three children.
Q Is your husband living? A No, sir; he is dead.
Q What was his name? A Why his name was Jerome C. Henry.
Q Was he a Cherokee citizen by blood? A Yes, sir.
Q When did you marry him? A In 1889.
Q Have you a marriage certificate? A Yes, sir.
Q You have no license? A No, sir; not any. We were just married by a minister. We didn't have any license.
Q When did Jerome Henry die? A The 9th of October, 1899.
Q What was the name of his father? A I don't know.
Q Is he living? A No, sir.
Q He is dead? A Yes, sir.
Q What was the name of his mother? A I don't know. She was dead before I knew her.
Q What are the names of your children? A Hugh M.
Q How old is he? A Nine years old.
Q What is the name of the next one? A Wilbur Watterson.
Q How old is he? A Seven years old.
Q What is the name of the next one? A Jerry.
Q How old? A Eleven months old.
Q All these children are alive and living with you? A Yes, sir; I have a certificate of the last one's birth.

1896 Roll, page 308, No. 489, Florence Henry, Cooweescoowee District.

Q When did your husband die? A Last October.

1896 Roll, page 180, No. 2323, Murrill Henry, Cooweescoowee District.

1896 Roll, page 180, No. 2322, Watterson Henry, Cooweescoowee District.

Q When was Jerome Henry Admitted to citizenship? A I think in 1886. He may be on the 1880 roll.

Q Have you a certificate of his admission to citizenship? A No, sir.

1896 Roll, page 180, No. 2321, Jerry C. Henry. Cooweescoowee District.

THE COMMISSIONER: The name of Florence Henry appears upon the Census Roll of 1896. She presents a certificate of marriage duly certified to, certifying that she was married to one Jerome C. Henry, a Cherokee citizen by blood, on the 11th day of June, A.D. 1889, and the name of said Jerome C. Henry appears upon the Census Roll of 1896 as Jerry C. Henry. The applicant avers that she has two children, ~~xxxxxxxx~~ Hugh M, and Wilbur W., whose names appear upon the Census Roll of 1896, and a younger son Cherry, born after the Census Roll was compilled, for which she presents a satisfactory certificate of birth. Said parties being duly identified according to the page and number of the roll as indicated in the testimony. But no proof of citizenship as to Jerome C. Henry is presented, although he is averred to be a Cherokee citizen by blood. Consequently, final judgment as to the enrollment of said Florence Henry, and her children, will be suspended, and they will be placed upon a doubtful card awaiting proof of admission of Jerome C. Henry as a Cherokee citizen by the constituted authorities of the Cherokee Nation.

Applicant excused.

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The undersigned being duly sworn, states that as stenographer to the commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above application, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

W. S. Mellen

Subscribed and sworn to before me this 2nd day of September A. D. 1900.

Commissioner.

D 303

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 29 1906

ACTING CHAIRMAN.

"R"

Cherokee D 303

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 15,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS, in the matter of the application of FLORENCE HENRY for the enrollment of herself and three children as Cherokee citizens.

Appearances:
Applicant in person;
W.W.Hastings, attorney for the Cherokee Nation.

FLORENCE HENRY, being first duly sworn, and being examined, testified as follows:

BY COMMISSION:

Q What is your name? A Florence Henry.
Q How old are you? A 29.
Q What is your post-office address? A Adair.
Q What is the name of your husband? A Jereme C. Henry.
Q Wat he a Cherokee? A Yes sir.
Q Did you live with him continuously from the time you married until he died? A Yes sir.
Q Have you married since his death? A No sir.
Q Were you married before youmarried him? A No sir.
Q Was he ever married before? A No sir.

BY MR. HASTINGS:

Q When did you marry him? A In '89.
Q What particular date? A June 12.
Q Where did you marry him? A Vinita, Indian Territory.
Q Have you lived in the Cherokee Nation ever since 1889? A Yes sir
Q Ever since you married him? A Yes sir.
Q You are living there now? A Yes sir.
Q You haven't married since his death? A No sir.
Q When did he die? A Two years ago last October.

BY COMMISSION:

Q Do you submit this case to the Commission for final consideration now? A If this is all the evidence that's necessary, I do.

BY MR. HASTINGS: Cherokee Nation submits the case.

--- ---

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony andproceedings in this case andthat the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 18,1902.

Commissioner.

Notes D 303

Cherokee D 303

H.H.L.

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

In the matter of the application for the enrollment of Florence Henry as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of her three minor children, Hugh M., Wilbur W., and Jerry Henry, as citizens by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 14, 1900, Florence Henry appeared before the Commission at Pryor Creek, Indian Territory, and made application for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of her three minor children, Hugh M., Wilbur W., and Jerry Henry, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 15, 1902.

The evidence shows that the said Florence Henry, a white woman, was lawfully married June 11, 1889 to Jerome C. Henry, a Cherokee by blood, who was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation, on September 17, 1884. The said Florence Henry and her children, Hugh M., and Wilbur W. Henry, are identified on the Cherokee Census Roll of 1896. The other child, Jerry Henry, was born on October 5, 1899, and proper proof of his birth has been furnished the Commission.

The evidence further shows that the said Florence Henry lived continuously with her husband, Jerome C. Henry, in the Cherokee Nation from the time of their marriage until he died in the year 1899, and Florence Henry has lived in the Cherokee Nation ever since the death of her husband. The said Florence Henry has not married since the death of her husband, Jerome C. Henry.

It is, therefore, the opinion of this Commission that Florence Henry should be enrolled as a citizen by intermarriage, and that Hugh M. Henry, Wilbur W. Henry and Jerry Henry should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,

this _____

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-303

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, July 29,1902.

Mr. W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of a decision of the Commission to the Five Civilized Tribes, rendered the 25th day of July, 1902, granting the application of Florence Henry for the enrollment of herself as a citizen by intermarriage, and for the enrollment of her three minor children, Hugh M., Wilbur W., and Jerry Henry, as citizens by blood, of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. D-303

N. 305

IN THE MATTER OF THE APPLICATION OF

Florence Henry et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 14. 1900
B - Memo of application - " 14. 1900
C - Birth affidavit - Jerry Henry
D - Certificate of marriage
E - Certificate relative to admission
F - Notice of final consideration
G

Order closing testimony - 2/15/01

D

Cher D 304

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
PRYOR CREEK, I.T., SEPTEMBER 14th, 1900.

IN THE MATTER OF THE APPLICATION OF George Gordon Watkins, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Geogr Gordon Watkins.
Q How old are you? A Forty four.
Q What is your Postoffice? A Pryor Creek
Q What is your District? A Coowescoowee.
Q For whom do you apply for enrollment?
Q Me and my wife and five children.
Q Do you apply for yourself as a Cherokee by blood? A No sir; by adoption.
Q Do you apply for your wife as a Cherokee by blood? A Yes sir.
Q Have you a marriage license and certificate? A Yes sir.
The applicant presents a duly authenticated Cherokee marriage license and certificate, dated July 28th, 1869, issued by the C Clerk of Tahlequah District, authorizing marriage ~~between~~ to Miss Susana Thompson: The certificate shows they the ceremony was performed on the 28th of July of the same year, by the Judge of Tahlequah District. This is filed herewith.
Q Have you and your wife lived together ever since your marriage in 1869? A Yes sir.
And lived continuously in the Cherokee Nation? A Yes sir.
Q Your wifes present name is Susanna Watkins? A Yes sir, at the present.
Q How old is your wife? A Twenty six.
Q From what district was she enrolled in 1880?
A She is not on the roll of 1880.
Q She is an admitted citizen, is she? A Yes sir.
Q Was she admitted by the Cherokee Commission? A Yes sir.
Q Have you the certificate of her admission? A No sir; not here; her "ma" has it.
Q When was she admitted? A About 1884 I reckon.
Q When did you say your wife was admitted? A I believe it was in 1884.
Q Give me the names of your children please? A Mary Ann.
Q How old is that child? A She is ten years old.
Q Next child? A John.
Q How old is that child? A Eight years old.
Q Next child? A Pearly.
Q How old is that child? A She is six.
Q Boy or girl? A Boy.
Q Next child? A George A.
Q How old is that child? A Four.
Q Is he on the roll of 1896? A No sir; not unless the Clerk put him there: I guess he is there.
Q Next child? A Joseph, one year old.
Q These children are all living now, are they? A Yes sir.

(1896 Roll, Page 1292, [illegible], Gordon Watkins, Tahlequah Dist)
(1896 Roll, Page 1269, [illegible], Lydia T. Watkins, " ")
(1896 Roll, Page 1269, [illegible], Mary A. Watkins, " ")
(1896 Roll, Page 1269, [illegible], John F. Watkins, " ")
(1896 Roll, Page 1269, [illegible], William P. Watkins, " ")

The applicant's wife being called and sworn, testified as follows:
Q What is your full name? A Lydia Susanna Matilda Watkins.
Q It was Lydia Susanna Matilda Thompson? A Yes sir.
Q Does that Lydia on the roll of 1896 stand for your name?
A Yes sir.
Q How do you want to be enrolled at this time?
A The license shows it as Susanna.
Q You want it to go in then as Susanna? A Yes sir.

Q That child, Pearly; his name is William P. is it? A Yes sir.
Q And the child John is John F.? A Yes sir. John Franklin.
Q Do you know anything about your having been admitted to citizenship in about the year 1884, by the Cherokee Commission?
A We came to the Territory in 1884.
Q Where from? A North Carolina.
Q Have you and your husband lived together ever since his marriage to you in 1880? A Yes sir.
Q Have you lived in the Cherokee Nation ever since you came here; since 1884; as you stated? A Yes sir; Tahlequah District.

Applicant recalled:

The applicant applies for the enrollment of himself, wife and five children. He claims as a Cherokee by adoption, and his marriage license and certificate show that he was married to his wife in the year 1880, and both he and his wife testify that they have lived in the Cherokee Nation since that time.

The applicant is identified on the roll of 1896, and claims for his wife as an admitted or a readmitted ~~Cherokee~~ Cherokee. This is not substantiated by any exhibit of the certificate of admission at this time. Therefore, the applicant is at present placed on a "Doubtful Card", and is enjoined to produce ~~an~~ official evidence of the admission of his wife to citizenship.

As for the enrollment of [illegible], she is identified on the roll of 1896, as an Intermarried Cherokee, and for the reason just stated, she will [illegible] on a "Doubtful Card".

As for their children, [illegible] A., John F. and William P. are identified on the roll of 1896, as their parents. They will now be placed on a "Doubtful Card", as Cherokee citizens by blood. When the applicant is supplied with the proper certificates of the birth of George A. and Joseph, their two younger children, they also will occupy the same status as their mother.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in the case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R B Crawford

Subscribed and sworn to before me
this 16th day of September, 1900.

C Bruce
COMMISSIONER.

SUPPLEMENTAL: D -/304

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I. T., December 3, 1900.

In the matter of the application of George Gordon Watkins for the enrollment of himself and family as Cherokee citizens; being sworn and examined by Commissioner Brookinridge he testified as follows:

Q What is your name? A George Gordon Watkins
Q Your wife is named Susanna? A Susanna Matilda.
Q Mr. Watkins you applied to the Dawes Commission at Pryor Creek didn't you? A Yes sir.
Q What is your wife's full ~~name~~ name? A Lydia Susanna Matilda is her full name.
Q What was the name of her mother? A Samantha is what I know her by; Samantha Thompson.
Q That was her name was it? A That's her mother's name.

Com'r: Brookinridge: The applicant presents a duly authenticated certificate of admission to citizenship showing that on April 4, 1837, certain persons were admitted to citizenship, and among them appears the names of Lydia S. Thompson, aged at that time 13 years;
Q Was that the name of your wife at that time? A Yes sir.
Q What was the name of her father? A Wm. D. Thompson.
Com'r: This name of Lydia S. is identified into certificate with her father, William D. Thompson, and this is recognized as official evidence of her admission to citizenship as stated, and the document is returned to the applicant.

Com'r Brookinridge: This testimony will be filed with the case of the applicant, Card D-304.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this December 4 1900.

T B Needles

Commissioner.

Supl.-C.D.#304.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of GEORGE G. WATKINS, ET AL., as citizens of the Cherokee Nation:

The applicant was notified by registered letter February 6, 1902, that his application would be taken up by the Commission for final consideration on the 24th day of February, 1902, and that he could appear on said date and offer any further testimony affecting his case. Receipt has been acknowledged of registered letter, and applicant has been called three times and fails to respond either in person or by attorny, and his case is ordered closed and reported to the Commission for final consideration based on the evidence now on file.

Commissioner.

J.O.R.

S D 304

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of George G. Watkins for the enrollment of his wife, Lydia E. M. Watkins, and his five minor children, Mary A., John F., William F., George A., and Joseph Watkins, as citizens by blood of the Cherokee Nation, and for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 14, 1900, the applicant, George G. Watkins, appeared before the Commission at Pryor Creek, Indian Territory, and then and there made personal application for the enrollment of his wife, Lydia E. M. Watkins, and his five minor children, Mary A., John F., William F., George A., and Joseph Watkins as citizens by blood of the Cherokee Nation and for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation. Thereafter, at Tahlequah, Indian Territory, on December 3, 1900 additional testimony in the matter of this application was taken. On February 24, 1902 the case was ordered closed and reported to the Commission for final consideration.

Since the date of this application another child, a son, DeWitt T. Watkins, by name, was born on April 15, 1901, to the applicant George G. Watkins, and his wife, Lydia E. M. Watkins, and proper proof has been made to the Commission of the birth of said child.

The applicant, George G. Watkins, his wife, Lydia E. M. Watkins, and their children, Mary A. Watkins, John F. Watkins, and William F. Watkins, are identified on the Cherokee Census roll of 1896.

It appears from the evidence in this case that George G. Watkins was married, according to the laws and customs of the Chero-

kee Nation, on the 25th day of July 1889, to Lydia Susanna Matilda Thompson, named in the marriage license and certificate, "Susannah Thompson," who is a recognized citizen of the Cherokee Nation, she having been re-admitted under the name of "Lidia S. Thompson," to all the rights and privileges of Cherokee citizenship by the Commission on Citizenship of the Cherokee Nation, on the 4th day of April 1887.

The evidence in this case further shows that Lydia Susanna Matilda Watkins has lived continuously in the Cherokee Nation since 1884, and that her husband, George G. Watkins, has been living continuously with her in the Cherokee Nation ever since their marriage in 1889.

Proper proof of the birth of George A. Watkins, born November 22, 1896, and of Joseph Watkins, born January 18, 1899, has also been furnished to the Commission.

The authority of the Commission herein is defined in Paragraph 1, Sec. 21, of the Act of Congress, June 28, 1898. (30 Stats. 495.)

It is therefore the opinion of this Commission that George G. Watkins is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that Lydia S. M. Watkins, Mary A. Watkins, John F. Watkins, William P. Watkins, George A. Watkins, Joseph Watkins, and DeWitt T. Watkins are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this MAY 20 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

D. 504.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of George G. Watkins for the enrollment of his wife, Lydia S. M. Watkins, and his five minor children, Mary A., John F., William P., George A., and Joseph Watkins, as citizens by blood of the Cherokee Nation, and for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-504.

IN THE MATTER OF THE APPLICATION OF

George G. Watkins et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 14. 1900
B. Mem° of application - " 14. 1900
C. Marriage License and certificate
D. Supplemental testimony - December 3. 1900
E. Certificate of admission
F. Birth affidavit George A. Watkins
G. " " Joseph Watkins
H. Birth certf of Dewitt T Watkins

Notice of final consideration
Order closing testimony. Feb. 24, 1902

See Cherokee Packet 6674,
6

Cher D 305

[illegible]

[illegible]

[illegible]

In the matter of the application of Jack Ell Hered for enrollment of himself, wife and child, as citizens of the Cherokee Nation, said proceeding being sworn by Commissioner Dreadnaught, testified as follows:

Q What is your name? A Jack Ell Hered.
Q What is your age? A 24.
Q What is your occupation? A Farmer.
Q In what country do you live? A [illegible]
Q Have you made application to have enrolled [illegible] wife and child.
Q Are you applying for yourself as a Cherokee by blood? A Yes.
Q Do you apply for your wife as a Cherokee by blood? A No sir; white woman.
Q How long have you lived in the Cherokee Nation? A 24 years.
Q What proportion of Cherokee blood do you claim? A Eight 1/16.
Q Are you enrolled in 1896? A No sir.
Q Are you on the 1896 roll? A Yes.
Q And you in Delaware district Court? A Yes.
Q Were you admitted to citizenship? A Yes.

Applicant presents duly authenticated certificate of admission to the rights of citizenship, showing that on the 24th day of June, 1896, certain persons were admitted to citizenship by the Cherokee Nation, and among them appears the name of Ell Hered, aged at that time 20 years. Now that is your name, Ell? A Yes. This is recognized as satisfactory evidence of the facts stated. The application for this enrollment was filed September 26, 1907. This is returned to applicant.

Q Have you lived in the Cherokee Nation ever since you were admitted in 1896? A Yes.
Q What is the name of your father? A Jordan Hered.
Q Cherokee or white man? A White man.
Q Dead or alive? A Dead.
Q How long has he been dead? A About 8 years.
Q Was he admitted were time you were? A No sir, he was a white man.
Q What is the name of your mother? A Mary Jane White.
Q Cherokee? A Yes.
Q Dead or alive? A Alive.
Q Was your mother and her name White? A Yes.
Q Did she marry a man named Jordan? A No sir; grand-father was named Jordan.
Q What is your present wife's name? A Ida I.
Q What was her name before you married her? A Chapman.
Q Was that her maiden name? A Yes.
Q When were you married to her? A '98 I reckon.

Applicant presents marriage license and certificate showing that in accordance with United States law that Jack Ell Hered was on the 14th day of March, 1898, licensed to marry Ida Jane Chapman, and they were married by the Mayor of Fairfax on March 13, 1899. These papers are filed herewith. Your wife married too late to acquire rights of citizenship.

Q What is the name of your wife's father? A William Alfred Chapman.
Q Is he dead or alive? A Dead.
Q What is the name of her mother? A I don't remember right name.
Q What is the name of your child? A Norma E., 1 year old.
Q Is your wife living with you at this time? A Yes.

By J. L. Bunch, Cherokee Representative:

Q Were you living in the country at the time you were admitted? A Yes, for 24 years.
Q You have never moved out of the country and have not lived out of the country at all since you were enrolled? A No sir.

On '96 roll, page 47, number 1414, as Ell Hered.

The applicant applies for the enrollment of himself, his wife and one child. He is shown by the certificate of admission filed in the testimony to have been duly admitted to Cherokee citizenship in 1884. He has lived here ever since and is identified on the roll of 1896 as a Native Cherokee. He will be listed for enrollment as a Cherokee by blood.

His wife is shown by the marriage license and certificate filed herewith, to have been married to him on March 13, 1899. This is too late for her to be admitted to enrollment, and the application for her enrollment is rejected. The child is shown by the marriage license and certificate filed herewith, to have been born September 1, 1899, some six months after the marriage. This casts a doubt upon the legitimacy of the child, and the application for the enrollment of the child will be placed upon a doubtful card. The applicant is required to see that the birth certificate is in due form and file it with the Commission. The final decision of the Commission in regard to the enrollment of his child will be communicated to him at his postoffice address.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 16th day of September, 1900.

Commissioner.

Supl.-C.D.#305.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of VERNA A. HERCD as a citizen of the Cherokee Nation:

The applicant's husband was notified by registered letter February 6, 1902, that her case would be taken up for final consideration by the Commission on the 24th day of February, 02, and that she could on said day appear before the Commission and introduce any further testimony affecting her case. The Commission's letter has been acknowledged. She has been called three times and fails to respond either in person or by attorney and the case is ordered closed and submitted to the Commission for final decision based upon the evidence now on file.

Commissioner.

J.O.R.

Cherokee D 306

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

J.A.L.

In the matter of the application for the enrollment of Verna E. Hered as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 17, 1900, Joel Eli Hered appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of his minor child, Verna E. Hered, as a citizen by blood of the Cherokee Nation. The other parties to the application are differently classified and are not embraced in this decision.

The evidence shows that the said Verna E. Hered was born September 1, 1899, to Joel Eli Hered, a Cherokee by blood, who was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation, on June 30, 1888, and his lawful wife, Ida I. Hered, a white woman.

Joel Eli Hered, the father of Verna E. Hered, has lived in the Cherokee Nation ever since his admission to citizenship in 1888, and is identified on the Cherokee Census roll of 1896.

It is, therefore, the opinion of this Commission that Verna E. Hered should be enrolled as a citizen by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,

this _____

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-305

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, July 29, 1902.

Mr. W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of a decision of the Commission to the Five Civilized Tribes, rendered the 25th day of July, 1902, granting the application of Joel Eli Herod for the enrollment of his minor child, Verna E. Herod, as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. D-305

IN THE MATTER OF THE APPLICATION OF

Verna E. Herod

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 17. 1900
B. Mem.° of application - " 17. 1900
C. Birth affidavit - Verna E Herod
D. Notice of final consideration
E. Order closing testimony, Feb. 24, 1902

Sept 10, 1900 [illegible] and transferred to [illegible] Card [illegible]

See Cherokee Jacket R137
2819

D

Cher D 306

Department of the Treasury,
[illegible]
Washington, D. C., [illegible] 27, 1[illegible].

[illegible] follows:

[illegible] A [illegible].
[illegible]
[illegible] A Yessir
[illegible]
[illegible] A Yes sir
[illegible] his former [illegible]
([illegible]).
Auditor: [illegible] husband [illegible] I haven't [illegible] A Yes sir.
[illegible] A [illegible]
[illegible] A [illegible]
[illegible] A [illegible] which one
[illegible] A [illegible], he was enroll [illegible] self.
[illegible] A Yes sir.
[illegible] A [illegible] they claim.
[illegible] A Yessir
[illegible] A Yes, sir.
[illegible] A [illegible] and left me, [illegible] living; [illegible] about [illegible] me. [illegible] work [illegible] as [illegible] on living.
[illegible] A Yes Hildebrand.
[illegible]
[illegible] stipulation [illegible] stipulations:
Q [illegible] A I aint got any.
Q You never was married to him, as a matter of fact? A Yessir
Q Were you married by a preach[illegible] A Yes sir.

D 306

S U P P L E M E N T A L T E S T I M O N Y .

D.#306.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., MARCH 18th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application for the enrollment of SALLY HILDERBRAND as a citizen of the Cherokee Nation; said Hilderbrand being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name now? A Sally Hilderbrand.
Q How old are you? A I am 51.
Q What is your post office? A Vinita.
Q You were before the Commission at Vinita and was enrolled by the name of Sally Hines? A I tell you that was not my name.
Q When were you married to Joseph Hilderbrand? A Seven years ago, the first day of next May.
Q Then did you and he separate? A He went off and staid about six months and come back and staid about a year and then went and come back again.
Q You were never divorced from him? A No, sir.
Q Then afterwards did you marry; after you were married to Hilderbrand were you married again? A They said I married to Hines.
Q What was Hines' first name? A Joseph.
Q How long did you live with him? A About three or four days. I would not live with him after I found out what he was doing.
Q Then Hines and you separated, did you? A Yes, sir.
Q And then after you separated from Hines, did you and Hilderbrand commence living together again? A Yes, sir.
Q About what time did you and Hilderbrand begin to live together after you married Hines? A Some day in September, the day I was up there at the Commission.
Q Is Hilderbrand living now? A No, sir, he died.
Q How long from the time you commenced living with him there at Vinita until the time of his death? A That was in September and he died the fifth day of February.
Q And your contention now is that you were not legally married to Hines? A No, sir.
Q Because you never got a divorce from Hilderbrand? A No, sir.
Q Was Hines a Cherokee citizen? A Yes, sir.
Q By intermarriage? A Yes, sir.
Q Hilderbrand was a Cherokee citizen by blood was he? A Yes, sir; he was a full blood Cherokee.
Q You claim that you are a Cherokee citizen by blood? A No, sir; don't claim that, I am not a Cherokee citizen by blood; I was part Osage, but I never have lived in the Osage Nation.
Q You are not a Cherokee citizen by blood? A No, sir.
Q You are an intermarried Cherokee? A Yes, sir, but I ain't an intermarried white.
Q You are a Cherokee citizen by intermarriage because you married Johnson O'Field? A Yes, sir.
Q He was your first husband? A Yes, sir.
Q Did you live with him until he died? A Yes, sir.
Q How long did you live with him? A 18 years.
Q And then you married Hilderbrand? A Yes, sir.
Q Was he a Cherokee citizen by blood? A Yes, sir.

BY J.L. BAUGH, Cherokee Representative:

Q Who said the ceremony between you and Hines? A That fellow in the Clerk's office, Anderson.
Q What position did he hold? A He was Assistant Clerk I believe.

Q Did Mr. Hines get a license? A No, sir.
Q Mr. Anderson married you and Hines without a license? A Yes, sir.
Q You didn't get a United States license? A No, sir. I told Hines that I would have to have a divorce from Hilderbrand and he said that there was no use and said he had seen three lawyers.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 18th day of March, 1901.

Commissioner.

D30

Supl.-C.D.#306.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 11, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of SARAH HILDERBRAND as a citizen of the Cherokee Nation: Introduced on part of applicant:

The applicant was notified by registered letter February 6, 1902, that her application for the enrollment of herself as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission on the 24th day of February, 1902. Receipt was acknowledged of Commission's letter, and on said date the applicant appeared in person. By agreement with the represent-tive of the Cherokee Nation present the case was continued until the 11th day of March, 1902: On this day, to-wit: the 11th day of March, 1902, the appeamtappears in person and by her Attorneys, Smith & McCullough, Vinita, I. T.

Mr. W. W. Hastings, Cherokee Representative, present.

ELLIS MOORE, being duly sworn, testified as follows on part of applicant:

MR. SMITH:

Q State your name? A Ellis Moore.
Q Where do you live, Mr. Moore? A I live about six miles west of Vinita.
Q How old are you? A I guess I am about 54 years old.
Q What is your ~~part~~ citizenship? A Cherokee.
Q By blood? A Yes.
Q Did you know one Joseph Hilderbrand? A Yes, sir.
Q How long did you know him? A I knowed him a good many years, I could not say how long.
Q Did you know one O'Fields, Samuel O'Fields, Johnson O'Fields?
A Yes, sir, I knowed him.
Q Is he living or dead? A He is dead.
Q How long has he been dead? A I could not say exactly.
Q How many years? A It has been a good while though.
Q Do you know who his wife was? A Yes.
Q Who was she? A Sarah, this woman.
Q This applicant here? A Yes.
Q Did Johnson O'Fields die before the defendant married Hilderbrand? A Yes, he did.
Q Do you remember about how long it was before? A I could not say exactly how long it has been; it has been a good while though. I can't keep any memory of anything that way; it has been a good many years.
Q Who was Joe Hilderbrand's wife? A This woman, Sarah.
Q This applicant, Sarah Hilderbrand? A Yes.
Q Do you know about when they were married? A Yes, I think I know about.
Q Give the date? A It seem to me like it has been about eight or ten years.
Q Were you present at the marriage? A Yes, sir.
Q Who married them? A Well preacher married them: Bear Timpson.
Q Where did he live from where you lived? A At that time I lived close to him, about a half of mile from him from where Bear lived.
Q Is he living or dead? A He is dead.
Q How long has he been dead? A He has been dead two or three

years I believe.
Q Who else was present at the marriage besides yourself?
A Well, there was several present; I was present and my wife and daughter, and then there was other people, neighbors around there was present.
Q What did you have to do with the marriage, if anything?
A Timpson got me to interpret for him in the english language so as she could understand.
Q Did Bear Timpson talk english at all? A No, he didn't talk any english, he spoke a few words but didn't talk.
Q You interpreted the marria e ceremony? A I interpreted the ceremony so as she could understand what was said.
Q Did you know them after the time of their marriage up to the present time? A Yes, sir.
Q Is Joe Hilderbrand dead or living? A He is dead.
Q How long has he been dead, or about how long? A I could not say exactly how long it has been; it has not been a great while though.
Q Could you give about the date? A I could not give exactly about the date, when he died.
Q Was he and the applicant living together at the time of his death? A Yes, I think they was living together.
Q Did you see them frequently during the time of their married life? A Yes, I seen them sometimes, they would come around there visiting.

MR. HASTINGS:

Q This woman is a white woman? A Yes, I think she is a white woman
Q Well, she says she is you have got no reason to dispute that have you? (No response.)
Q Are you going to answer? A Yes, I believe I could not say.
Q She married Johson O'Fields? A Yes, she is looked on as a white woman.
Q She married Johson O'Fields and ~~married that~~ lived with him until his death? A Yes, sir.
Q And then she married Joe Hilderbrand and lived with him until his death? A Yes, sir.
Q And then she married a white man, Joe Hines? A I don't know, about only her marrying these two men.
Q You never heard of her after she married Joe Hines did you?
A No, I never.
Q All you know is she married these other two men, O'Fields and Hilderbrand? A Yes.
Q And that she lived with them until their death? A Yes, that is all.

TOM COOK, being duly sworn, testified as follows on part of applicant:

MR. SMITH:

Q Give your name? A Tom Cook.
Q How old are you? A 37 years old.
Q Where do you live? A Here, Indian Territory.
Q Well, in reference to Vinita where do you live from Vinita?
A South of Vinita, eight miles.
Q What is your citizenship? A Cherokee.
Q By blood or adoption? A Adoption.
Q What relation are you to Sarah Hilderbrand? A I am her own son.
Q Your father's name was what? A Cook.
Q Is he living or dead? A He is dead.
Q How long has he been dead, or about how long?
A He haw been dead about,--about three years.
Q Where did he die? A He died up there on Grand river,

Q Who did your mother afterwards marry? A She married Johnson O'Fields.
Q After your father's death or before? A After.
Q Who was Johnson O'Fields, as to citizenship was he a Cherokee,
A He was a Cherokee.
Q By blood or adoption? A By blood.
Is he living or dead? A He is dead.
Q How long has he been dead? A He has been dead 14 years, I believe, somethwere along there.
Q Where did he die? A He died in Vinita.
Q Did your mother afterwards marry again? A Yes, sir.
Q Who did she marry? A Joe Hilderbrand.
Q Was he a Cherokee or United States citizen? A He was a Cherokee.
Q By blood? A Yes, sir.
Q Where were they married? A They was married on Pawpaw west of Vinita.
Q Were you present at the marriage? A No, sir.
Q How long after O'Feilds died before your mother married Hilderbrand, about how long? A About seven or eight years.
Q Is Hilderbrand living or dead? A He is dead.
Q How long has he been dead? A A little over a ye ar.
Q Can you give the date of his death? A No, sir, I could not it was along about between the first and tenth of January.
Q Of what year? A 1900.
Q 1900? A 1900.
Q How long ago? A How long ago since he died?
Q Yes. A He has been a little better than a year ago.
Q Was it January, 1900, or January 1901? A It was January, 1900, I guess.
Q Where did he die? A He died down on the river, at the mouth of Big Cabin.
Q At whose place? A At his own place.
Q Are you a married man or single man? A I am a married man.
Q How long have you been married, about how long? A About 14 years.
Q Where have you lived since the time of your marriage? A I have lived with mother all the time right on the place.
Q On the same farm? A On the same farm.
Q Whose house did Hilderbrand die? A Died at Mother's house.
Q What was the matter with him? A Smallpox.
Q Do you know one Joseph Hines? A Yes, sir.
Q How long have you known him, or about how long? A About two years.
Q Do you know anything about a marriage between your mother and Joseph Hines? A Yes, sir.
Q About when did that take pace; give the date as near as you can?
A It was a little better than a year ago.
Q You don't remember the date? A No, sir.
Q Do you knew whether your mother and Hilderbrand had been divorced at the time of this marriage? A No, sir.
Q You mean you know or them hadn't? A They hadn't.
Q Do you know how it happened that they were married and not being divorced? A Why no, Mr. Hines said there was no use in getting no divorce.
Q Hines said that? A Yes, sir.
Q How long did they live together? A Why about two weeks I think.
Q Do you know anything about a case in which Hilderbrand was prosecuting your mother for living with Hines? A Yes, sir.
Q Where was that case tried? A In Vinita.
Q How long after she and Hines were married, or about how long?
A Between two and three weeks.
Q How long did Hines and your mother live together after this marriage

Q How long did Hines and your mother live together after this prosecution was begun? A Not any at all.
Q Didn't live together any more? A No, sir.
Q Did your mother and Hilderbrand live together after that prosecution? A Yes, sir.
Q How soon? A Why just right away, in four or five days.
Q Did you have anything to do with their living together after this prosecution? A Yes, a little bit.

Mr. Hastings: I don't see that that is material; I object.

Q State what you had to do about their living together again?
A Why not anything only just that I was in town and met up with Joe and first time I had seen him for somtime and I met up with him and he asked me to ~~tmm~~ talk to mother and try to get her to make up with him again and I told him I would if it would be any accomodation to him and asked him to go home with me and he said he would not go without mother's consent and told me if I would go home and if mother wanted him to come back and I sould come to town the next day and he would go home with her.
Q What did you do? A The next day me and mother went back to town and found Joe there as he promised to be and went out to his sister and stayed all night with his sister and went on home.
Q Now, do you know about the time that was, can you give about the date? A No, sir, I could not.
Q How long was that after the suit was tried? A It was not but just a short time, few days.
Q where did Hilderbrand continue to live from that time up until the time of his death? A Right out there with mother.
Q With your mother? A With my mother.
Q Did she ever after that time live with Hines? A No, sir.

MR. HASTINGS:

Q Joe Hines was a white man? A Yes, sir.
Q Your mother was a white woman; is that a fact? A Yes.
Q The two were married? A Yes, sir.
Q And that was after she married Hilderbrand, is that a fact?
A Yes, sir.
Q Rhey lived together some two or three weeks as husband and wife?
A About a week, yes.
Q What became of the prosecution of your mother, was she convicted or was she released? A What conviction?
Q You said Joe Hilderbrand prosecuted your mother; now was she convicted or was she acquitted, release d? A Why she was released.

MR. SMITH:

Q I will ask you what was the result of the examination before the Commissioner, if you know?

Mr. Hastings: I think that the record ought to be brought in on that proposition. I object tto the testimony because certainly the record is the best testimony, and this witness ought not to be allowed to tell it, particularly because he is a son of the applicant.

Commission: Answer the question.

Q Do you know what was the result of that prosecution before the Commission? A Yes, sir; she was bound over, that was the result.

MR. HASTINGS:

Q I thought you stated a while ago she was released? A I don't know, I wasn't there at the trial.
Q You wasn't there? A Not to hear the trial.
Q You only heard it on the outside? A No, I was there in town.
Q You wasn't in before the Commission; were you present when the Commissioner acted on it? A Yes, sir.
Q I thought you said you was out in town? A Well, but then you, the first time when they was tried there was one I was talkaing about.
Q Were you there when the Commissioner tried the case?
A Yes, sir, I was.

A Yes, sir, I was.
Q What did the Commission do with them? A Bound her over.
Q I thought you said a while ago that he released her? (No response)
Q Were you mistaken? A Must have been.
Q Then they were afraid of the matter before the grandjury and they went to living together in order to stop it before the grandjury?
A No, sir.
Q They went to living together with in four or five days after they were bound over before the grandjury met? A I can's understand it.
Q She, your mother, and Joe Hilderbrand went to living together four or five days after she was bound over and before the grand jury met and acted on the case? A No, sir, it was before the grand jury.
Q That is what I am saying, after the Commissioner bound her over and before the grandjury acted? A It was before the Commissioner tried them.
Q And then she and Joe Hilderbrand were living together when the Commissioner tried it, and when Joe Prosecuted it, is that the way of it? A No, sir.

Mr. Hastings: I move to exclude all this testimony because it is quite evident that the witness is an incompetent witness.

MR. SMITH:

Q Now, in reference to the time that your mother was tried before the Commissioner, calling your attention to that time, was it before or after that time that your mother and Joe Hilderbrand began living together? A In reverence to the time of which.
Q In reference to the time that your mother was tried before the Commissioner; you know when she was tried before the Commissioner?
A Yes.
Q Now, was it before or after that time that your mother and Joe began living together? A It was after that time. I can understand your talk, I am used to you.
Q Was it before the grandjury met or after the grandjury met that they began living together? A I can't recollect that mugh of it; I was not there at that time.
Q You say she was bound over by the Commissioner under the grandjury? A Yes, sir.
Q Now, do you know when the grandjury met? A No, sir, I was not there.
Q Now, can't you state how soon after the trial was had before the Commissioner that your mother and Joe Hilderbrand began living together again, about how many days or how many weeks or months?
A It was not more than two or three days.
Q You don't know when the grandjury met after that?
A No, sir. There is where this man had me puzzled, he didn't ask me that question the way you did; I don't understand his talk; I ain't use to this Court business and I could not understand his words.

SARAH HILDERBRAND, the Applicant, being duly sworn, testified as follows in her own behalf:

MR. SMITH:

Q State your name? A My name is Sarah Hilderbrand.
Q How old are you? A 51, going on 52 now.
Q Where do you live at this time? A I live eight miles from Vinita on Big Cabin.
Q I wish you would state to the Committee when you were first married to your first husband and give his name and the date if you can?
A I was married in '57 in Texas, the 48th day of July.

Q Give your husband's name? A He is named William Cook.
Q When afrer that did you move to the Territory?
A I moved here in '70.
Q When did Cook die? A In '73.
Q Where did he die? A He died up here on the river at John O'Field's.
Q When after that did you marry again and to who? A I married Johnson O'Fields.
Q Can you give thedate of your marriage? A It was about the last days of February.
Q In what year? A In '79.
Q Now, Thomas Cook, is he a son of yours? A Yes, sir.
Q By your first husband? A Yes, sir.
Q When did Johnson O'Fields die? A He died in.
Q Give about the date? A He died in '87, I think 10th of November.
Q What was his citizenship? A He was mighty near it a full-blood Cherokee.
Q Is he living or dead? A He is dead.
Q When did he die? A He died 10th day of November, about 14 years ago; 13 or 14 I don't know which.
Q Was you married after that? A Yes.
Q Who did you marry after that? A Married Joe Hilderbrand.
Q Do you remm er how long ago that is? A I thi nk it was nine or ten years ago, the 1st day of this next May com ing.
Q Who married you? A Bear Timpson, and that there Mr. Moore.
Q What did Moore have to do with it? A Well Bear Timpson married us in Indian and I could not understand and Mr. Moore interpreted in english.
Q Is Joseph Hilderbrand living or dead? A He is dead.
Q When did he die? A He died the 3d day of last January was a year ago
Q Where did he die? A He died at Home up here at the mouth of Big Cabin.
Q What was the matter with him? A He had the smallpox.
Q Now, did you know a man by the name of Hines? A Yes, sir.
Q How long did you know him? A About two months.
Q From now, you mean; how long ago? A It has been about two years, when I first knowed him.
Q Did you ever marry Joseph Hines? A Yes, sir.
Q Do you remember the date of that? A Well, it was somewheres abou t the first of, about the 10th of August I guess.
Q Of what year? A I guess in 1900.
Q Do you know anything about the prosecution of you in the United States Court at Vinita on account of marrying Hines? A Yes, sir.
Q Who was the prosecuting witness in the case? A Joe Hilderbradn.
Q How did it happen that you married Hines? A Well, Joe would go, made a little fuss andxxxxx told me that he had another wife and he didn't have any divorce from her and he didn't have to live with my folks unless he wanted to, and he wanted to runn around all the time and took the wagon and team and wanted me to go with him and I could not do that; I had to stay at home and tend to my stuff.
Q What did you do about that? A Well, Joe Hines he come there and brung his children and wanted me to take care of them, and he had been there about a month as I say and then he got at me to marry him and I says I don't want to marry no white man and I says that we wouldn't get along any way and he said we will get along; I says I ain't got no divorce from Joe and he says if Joe didn't have no divorce from his other wife you ain't legally married to him, and he says I would go and see and he took a horse and went riding around and day or two come back and said he has seen some lawyers and come back and we was married.

Q Do you remember the date of the marriage? A No, sir, I don't.
Q Who married you? A Anderson.
Q Who was he? A Clerk Anderson at Vinita.
Q How then how soon after the marriage before this prosecution?
A About ten days or two weeks.
Q Who had you arrested? A Joe Hilderbrand.
Q What was the result of that prosecution, what did they do with you? A They bound me over and I had to give bond, three hundred dollars.
Q How long did you live with Hines after that prosecution begun?
A Mary day.
Q How long after this prosecution was it and you was bound over did you again live with Hilderbrand? A Well, I don't know; it was about a week or ten days one, in that time sometime.
Q Where did you see Hilderbrand after the prosecution?
A Why I seen him there in Vinita the next day and he come and talked to me a little while and says; yes, I bound you over, didn't I; he says you ought to have known I would have done that; and I says that is all I can't help it, and he says you ought to live with me again and I went off then and about five or six days' ~~time~~ from come to town and seen Joe and he says go and tell your mammy she had better come and live with me. He says I was not a good man when I did live with her; now he says now she is living with Hines and doing better and says I will come after her, and then he says Tom will come after us and he says for us to come to Nelli's and Nellie said Joe said for us to come over to town and we went over there and I went where Joe was and he just grabbed hold of me and he says did you come after me and I says yes if you will go and live with me, and I says if you want to live with me again I would love you. He says I love you now and will live with you, and I says what about us going together, and he says I went to see Cap. White and went to see Mr. Smith and they said you are my legal wife and I says let's go and see Cap. White and he says I was his legal wife.

Mr. Hastings: Well, I think you have got enough hearsay testimony in there. I want to object to that; it is a legal question.

Q Where did he ever live after this time, up until his death?
A He lived at home with me.
Q Where did he ~~live~~ ~~xx~~ die? A He died at home.
Q What was the matter with him? A He died with the smallpox/
Q Could you give the date of his death? A Yes, sir, he died the 3d day of January, just a year ago.
Q Year ago last January? A Yes, sir; year ago last Jan ary.
Q Do you know what became of the case that was appealed from the Commissioner's Court; I mean you were bound over to the Commission'rs Court to the grandjury; do you know what became of it? A No, sir, I don't know.
Q Did you appear during the next term of the Court under that bond?
A No, sir.
Q Why didn't you appear? A Why Joe went.
Q And you didn't appear? A No, sir.

MR. HASTINGS:

Q The Dawes Commission was up there enrolling about Sepbember, 1900 wasn't they, directly after you and Joe Hines was married?
A After we had parted.
Q Well, you married him in August and the Dawes Commission was up there the next month? A In September! yes, they was there in September.
Q People began to tell you around there where two white people were married you would lose your rights? A No, sir.

married you would lost your rights? A No, sir.
Q They didn't say anything about that? A No, sir.
Q Were you living with this man Hilderbrand at the time that you made your first application to the Commission in September, 1900?
A Yes, sir.
Q Why didn't ayou apply for Joe Hilderbrand at that time?
A I will tell you why I didn't; Hines went and got that ticket and brung it to me.
Q Why didn't you apply for your husband when you applied so you and your husband could go on the card together? A I wanted him to go and Ben Hilderbrand would not let him go in.
Q You didn't apply for him? A No, sir.
Q Why didn't you say that you were living with Joe Hilderbrand when you were before the Commission? A I said I was not living with anybody.
Q You just now stated that you and Joe Hilderbrand were living together? A Right then?
Q Yes? A I said Joe was there.
Q You say now you was living with him? A No, not when you was out there in the tent, but when you went to town in them houses I was.
Q Were you and Joe Hilderbrand living together? A Yes, sir, while you was in town.
Q Then you took up together while the Commission was at Vinita?
A Yes, sir.
Q And that was the occasion of your living together, was the question of your being enrolled? A No, sir; no, sir; Joe come back and begged me and I was his lawful wife.
Q Joe told you that he had another wife he hadn't been divorced from? A Yes, he did tell me that.
Q Now Hines was a white man? A Yes, he was a white man.
Q How long had you and Hines been married when Hilderbrand had you prosecuted? A About a week.
Q Fact of the business is you run him off from the place?
A No, sir.
Q You run all them children off? A No, sir.
Q How many did he have there? A Three.
Q You mean to say you let a man and three children living there without running them off? A Yes, sir; he went off and the children were there.
Q Were they there when you were prosecuted? A Yes, sir.
Q How long did they stay there? A About a week; stayed until the day Joe come home and Hines went off down to Tahlequah.
Q Did you run him off? A No, sir; I said when ever they come down there,-Pleas Thompson~~xx~~ come down there and says there going to Prosecute you and I says what for, and he says for marrying Hines and I said if that is the case Joe Hines can go.
Q And you run him off? A No, sir; I told him if he had lied to me that way he could get up and start, and I heard he told you that I run them children off.
Q Wasn't anything done, were you at the grandjury, never indicted you? A Joe went to the Court and I don't know what was done.
Q You can tell me whether you were indicted and brought up before the Court or not? A Not at the grandjury.
Q Now, you said a while ago that you were married to your first husband on the 8th day of July, 1857? A Yes, sir.
Q You are pestive of that? A It was '67, I said, the war ended in '65 and I was married in '67.
Q That was a mistake then was it? A Yes, sir.
Q Sorter like this mistake in marrying Joe Hines? A No, sir; no mistake about that, I married Joe Hines.

Commission: There is offered in evidence by the Attorney for the applicant a certified copy of the evidence of Joe Hilderbrand taken before Harry E. DonCarlos, Commissioner of the United States Court, in the Norther District of Indian Territory.

Mr. Hastings: The representatives of the Cherokee Nation desire to object to the introduction of this testimony for two particular reasons; one is it is no more not less than an affidavit, that was purported to have been made before the Commissioner at Vinita, at which the Cherokee Nation was not present and no cross-examination then had, and the second place this same affidavit purports to testify to things of which there should be a matter of record. He says: the Gritts woman and I were divorced before the defendant and I were married, and if that be true, the record of that divorce should be introduced and not a statement of Joseph Hilderbrand; and the testimony is not admissible for another reason, because it does not purport to give all the testimony taken in the matterm and it is a fact that all the testimony was not taken down before the Commissioner but he uses his discretion in taking down the principal points in the testimony.

Mr. Smith: This testimony is offered for the reason that since the taking of this testimony before the U. S. Commissioner, said Joseph Hilderbrand is deceased, died on January 3, 1902, and that no other testimony could be had to prove the facts set out in the transcript of the record.

We ask the Commission permission to file a certified copy of the records in the case of United States versus Sarah Hines, nee Hilderbrand, taken before Harry E. Don Carlos, as United States Commission for Norther District, Indian Territory, at Vinita February 24, 1900; and also the further record of the divorce of Joseph Hilderbrand from his former wife Gritts, before Judge Woodall, of Canadian District, I believe, Cherokee Nation.

Mr. Hastings: The representatives of the Cherokee Nation object to granting or admitting this testimony in the matter for for the reason that no diligence bhas been shown whatever on part of applicant inasmuch as this case was continued at her special request from the 24th day of February until the 11th day of March, and the Commissioner before whom this prosecution was had lives in the town of Vinita, the same town that the attorney for the applicant lives in, and further that this testimony is not materal, nor is it competent testimony because the Cherokee Nation was not a party to it, was not there, and did not participate in the cross-examination of the witnesses and the testimony taken before the Commissioner is no more nor less than testimo ny taken before a Notary Public, and it is not better testimony than affidavits or depositions, and further it does not tend to prove any issue in this case.

Commission: The objection of the Cherokee Nation will be noted and attorney for the applicant will be permitted to file the records, and they will be considered for what they are worth The attorney for the applicant will be given 20 days in which to file the records indicated.

Attorney for the Applicant and representative of the Cherokee Nation present submit the case. The same will be considered completed and will be reported to the Commission for

final decision based upon the evidence now of record.

The attorney for the applicant will be given 30 days in which to file a brief in the case, one copy with the Commission and one copy with the representative of the Cherokee Nation.

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I, J. O. Rosson, do hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings had in this case on the above date and that the foregoing is a true and complete transcript of my stenographic notes thereof.

J O Rosson
Stenographer.

Acting Chairman

Cherokee D 306

N. A. L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Sarah Hines for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 17, 1900, the applicant, Sarah Hines, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation. Thereafter, on March 18, 1901, at Muskogee, Indian Territory, the applicant again appeared before the Commission and testified further in the matter of her application. Again on February 24, 1902, at Muskogee, Indian Territory, the applicant appeared before the Commission. By agreement with the Representative of the Cherokee Nation the case was continued until the 11th day of March 1902. On the last mentioned date further evidence in the matter of this application was heard, and at the conclusion of the testimony taken on that day leave was given to the attorney for the applicant to file a brief within twenty days and the case was reported to the Commission for final consideration. No brief has been filed. On a day subsequent to the date of the applicant's first appearance before the Commission she gave her name as Hilderbrand, and testified that Sarah Hilderbrand was her right name and that she wished to be so enrolled.

The evidence in this case shows that the applicant was lawfully married, in February 1878, to Johnson O'Fields, a Cherokee

citizen by blood, whose name appears on the Cherokee authenticated tribal roll of 1880. The applicant in this case is also identified on that roll, as an "adopted child", her name there appearing as "Sarah O'Fields". After the death of Johnson O'Fields, the applicant was lawfully married, May 1st, 1892 or 1894, to Samuel Hilderbrand, a Cherokee citizen by blood, who often went by the name of "Joe Hilderbrand." He was listed for enrollment on Cherokee Roll Card Field No.3362. A copy of the testimony in his case is made a part of the record in this case.

The applicant, Sarah Hilderbrand, is identified under the name of "Sallie Hilderbrand", on the Cherokee census roll of 1896.

The applicant and Samuel, or "Joe", Hilderbrand separated and, without getting a divorce from said Hilderbrand and during his lifetime, she married one Joe Hines, an intermarried citizen. After learning that her marriage to Hines was not lawful, the applicant ceased living with him and lived with her husband, Samuel, or "Joe", Hilderbrand continuously up to the time of his death in the early part of January 1901.

It is provided by Section 687 of the Compiled Laws of 1892 of the Cherokee Nation that

> "No marriage shall be contracted whilst either of the parties has a husband or wife living; . . . . "

And by Section 692 of the same Laws that

> "All marriages which are herein prohibited on account of consanguinity between the parties, or on account of either of them having a former husband or wife then living, shall be absolutely void in this Nation, without any judgment of divorce or other legal proceedings; . . . . "

The authority of the Commission herein is defined in Paragraph 1, Sec. XI, of the Act of Congress, June 28, 1898. (30 Stats. 495.)

It is therefore the opinion of this Commission that Sarah Hilderbrand is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory and

Checkum D 204 - 5 -

that the application for her enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this MAY 20 1902

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee I. T. June 3rd 1902.

In the matter of the application of Sarah Hines for enrollment as a citizen of the Cherokee nation by intermarriage.

Cherokee D 306.

Protest of the Cherokee Nation.

The Cherokee nation respectfully dissents from the opinion rendered by the Commission in this case of May 20th 1902 and requests that this case be forwarded to the Honorable Secretary of the Interior for Review.

The testimony shows that the applicant is a white woman that she was twice married to Cherokeesby blood, first to Johnson O'Field and afterwards to Joe Hilderbrand; that after her separation from her second husband that she married a white man by the name of Joe Hines and the Cherokee nation contends that under section 666 of the compiled laws of the Cherokee nation which provides for a forfeiture of citizenship in case an intermarried white man or woman or person having no rights of citizenship by blood forfeited her rights to citizenship in the Cherokee Nation.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

D. 306.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Sarah Hines for the enrollment of herself as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-306.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee 3-806

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, July 20,1908.

Mr. W.W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of date May 20th, 1908, granting the application of Sarah Hilderbrand for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation, was affirmed by the Secretary of the Interior on the 19th day of July, 1908.

Respectfully,

Commissioner in Charge.

W 386

Sarah Hilderbrand

Transferred to Cherokee 9468

Cher D 307

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., November 17, 1902.

In the matter of the application of William H. Hall for the enrollment of himself, wife and child, as Cherokee citizens; being sworn and examined by Commissioner Tomlinson testified as follows:

Q. What is your name? A. William H. Hall.
Q. What is your post-office address? A. Afton.
Q. What is your district? A. Delaware.
Q. Are you a recognized citizen of the Cherokee Nation? A. Yes sir.
Q. By blood? A. No sir, intermarriage.
Q. How long have you lived in the Cherokee Nation? A. Twenty years, and the rest.
Q. What is the name of your wife? A. Martha Childers was her maiden name.
Q. What was her father's name? A. Childers, I don't know his given name.
Q. Is he living? A. No sir.
Q. What is her mother's name? A. Katie.
Q. Is she living? A. No sir.
Q. She died before 1896? A. I think so.
Q. Have you a certificate of marriage? A. Yes sir. (Produces papers.)
Q. What are the names of your children? A. I have just one little boy with me. Benjamin, twelve years old.
My wife was re-admitted.
1896 roll page 576 #261 William H. Hall, Delaware District;
1896 roll page 474 #1364 Martha Hall Delaware District;
1896 roll page 472 #1370 Benjamin Hall Delaware District;
Q. This is a certificate of marriage, have you the license?
A. I just went to the Clerk and he married me.
Q. You present a certificate of admission from the office of the Commission on citizenship at Tahlequah, under date of 28th day of September 1897, signed by F. T. Adair, Chairman of the Committee, and attested by Henry Sifferd, Clerk of the Committee, approved and indorsed by D. W. Bushyhead, Principal Chief, under the Great Seal of the Cherokee Nation; among other names I find admitted in this certificate the name of Martha Hall; is she the identical Martha Hall for whom you apply for enrollment as your wife?
A. Yes sir.

Note: Applicant is advised that it will be necessary to present Cherokee marriage license or certified copy.

Q. How long has your wife been living in the Cherokee Nation?
A. All her life, she was born about 10 miles from Webbers Falls.
Q. Was she a resident here in September 1896? A. Yes sir.

Comr's Handles: The name of William H. Hall appears upon the census roll of 1896; the name of his wife Martha Hall also appears upon said roll; he presents a certificate of admission issued by the Commission on citizenship; he presents no marriage license, but a certificate certifying that he was married to one Martha Hall on the 7th day of May 1897; no marriage license being presented, and the certificate showing that he was married a second time to his wife, final judgment as to the enrollment is hereby suspended and his case will be placed upon a doubtful card, awaiting the decision as to the legality of his marriage, and also presentation of his marriage license; the name of his wife Martha Hall and her child Benjamin will be duly listed for enrollment as Cherokee citizens by blood.

N.D. Green, being first duly sworn, states that he is stenographer

Wm H Hall et al v

The Commissioner to the Five Civilized Tribes has correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript which stenographic notes he took.

Subscribed and sworn to before me this 19 day of September 1907.

Commissioner.

N 307

Supl.-C.D.#307,

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of WILLIAM H. HALL as a citizen of the Cherokee Nation:

Mr. W. W. Hastings, Cherokee Representative, present.

The applicant was notified by registered letter February 6, 1902, that her case would be taken up for final consideration by the Commission on February 24, 1902, and that she would on said date be given an opportunity to introduce any further testimony affection in her application. Receipt has been acknowledged of the Commission's registered letter, and the applicant has been called three times and fails to respond. The case is ordered closed and reported to the Commission for final decision based upon the evidence now on file.

Commissioner.

J.O.R:

Cherokee D. 307.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., April 17, 1903.

In the matter of the application of William H. Hall for the enrollment of himself as a citizen of the Cherokee Nation.

This case is this day, to wit the 17th day of April, 1903, reopened, there being present the applicant in his own behalf and W. W. Hastings in behalf of the Cherokee Nation.

W. H. Hall, being first duly sworn, testified as follows:

COMMISSION: What is your name? A W. H. Hall.
Q What is your postoffice address? A Afton, I. T.
Q You have heretofore made application to this Commission for enrollment as a citizen of the Cherokee Nation? A Yes, sir.
Q Why did you not appear before the Commission when this case was set for final hearing on the 24th day of February? A My wife she fell and hurt herself, I couldn't leave home, that is the reason I didn't come.
Q What is the name of your wife? A Martha Childers.
Q You claim your right to enrollment by reason of your marriage to a Cherokee woman? A Yes, sir.
Q Do you claim your right to enrollment through your present wife, Martha Childers? A Yes, sir.
Q Were you ever married before you were married to her? A No, sir.
Q Was she ever married before she married you? A No, sir.
Q When were you married to her? A I was married to her I think my certificate will tell, I think in '91. The Commission is in possession of my marriage certificate. It is in '91 possibly.
Q When did you file that certificate that you speak of? A Why it was when the Commission was at Vinita in last October I think it was a year ago if I'm not mistaken.
Q Well, that was the certificate which you received from B. W. Alberty was it, in which he certified that he had examined the records for your marriage license and certificate, and couldn't find them? A No, the certificate that I presented to the Commission you know was a certificate that I got of the clerk of Coowescoowee District, Mr. Drew, that is present here now with his signature to it.
Q Well, were you married to your wife under a Cherokee license? A Yes, sir.
Q Who were your signers? A Why Joseph Muskrat, Simpson Muskrat, and George Ward, and Jim Harlin, and Henry Inlow, and Thomas Inlow, I don't know that I could just call every one of them.
Q Who issued this license to you? A Why Mr. Drew.
Q Who? A Mr. Drew.
Q What official position, if any, did he hold at that time? A Why he was deputy clerk under Harden Frett of Coowescoowee District, at Vinita.
Q Who married you? A Mr. Drew.

W. H. Drew, being first duly sworn and examined by the Commission, testified as follows:

Q What is your name? A W. H. Drew.
Q How old are you, Mr. Drew? A 59.
Q What is your postoffice address? A Vinita.

Q Are you acquainted with the applicant in this case, W. H. Hall?
A Yes, sir.
Q How long have you known him? A Well, I don't remember.
Q Well, about how long? A About '93 or '92 or '3.
Q Have you ever held any official position in the Cherokee Nation?
A Yes, sir.
Q What position was it? What position, if any, have you held there?
A Deputy-clerk of Cooweescoowee District.
Q Now do you remember whether or not when you were acting as such clerk you issued a license to this man, William H. Hall? A Don't remember, I may have issued it, I don't remember.
Q You remember whether or not this man Hall was married, ever married? A. Don't remember that.

W. H. Hall, recalled:
Q What became of your marriage license? A Well now that's what I couldn't tell you, that's a question. I give my license and my petitions signed by those persons to Mr. Drew; I went up there and of course it probably wouldn't be necessary for me to make—
Q Well just tell what became of them, if you know? A I don't know. I give them to Mr. Drew, I drove up from my farm, and I give Mr. Drew my license and my petition; and his signature is to my marriage certificate there, whatever the date is.

COMMISSION: There is filed in the case of the applicant's wife, Martha Hall et al, a certificate signed by William H. Drew, showing that the applicant and his wife were united in matrimony on the 16th day of May, 1893, said certificate being as follows:

"CERTIFICATE OF MARRIAGE.

Cooweescoowee District,)
Cherokee Nation, Indian Territory.)

I, W. H. Drew, Dept. Clerk of Cooweescoowee District, Cherokee Nation, do hereby certify that W. H. Hall, of Cherokee Nation, and Martha Hall, of Cherokee Nation, were by me joined in marriage on this the 16th day of May, 1893, agreeable to the authority in me vested, under the laws of the Cherokee Nation, Indian Territory.

In witness whereof I have hereunto set my hand and Official Seal on the day and date above written.

(SEAL) W. H. Drew, Dept.
'Exhibit B' Clerk Cooweescoowee District,
Cherokee Nation, Ind. Ter."

Q Have you ever made any effort to ascertain whether or not this license was recorded? A Yes, sir, I wrote down for Mr. Drew here to write down to Mr. Alberty at Tahlequah, and he written down there and he sent me back—he said he had examined the records carefully and he couldn't find any record, I think that I sent down his affidavit if I ain't mistaken in the matter.
Q Who did you say issued this license to you? A Mr. Drew.
Q Is that the gentleman there? A Yes, sir, that's the gentleman right here.
Q He was acting as deputy clerk at that time? A Yes, sir, he was acting as deputy.
Q What amount did you pay for the license? A I paid ten dollars.

W. H. Drew, recalled:
Q Do you remember whether or not you ever issued this man a Cherokee marriage license? A I don't remember about the license, whether I issued the license, I may have issued the license to him.
Q Do you remember whether or not you performed the ceremony of marriage between himself and his present wife? A No, sir, I can't call to mind that I did now.
Q Is this your signature attached to this marriage certificate? (Handing marriage certificate to Mr. Drew) A Yes, sir.

W. H. Hall, recalled:
Q Are any of your signers living? A Yes, sir.
Q Where do they reside? A Joseph Muskrat lives down close to Afton; Simpson lives out south of Afton, and George Ward lives on Goukin Prairie, and Henry Inlow lives over there; Thomas Inlow —
Q Well, can't you get some of those men to come here before the Commission? A Yes, sir, they told me they would; but I thought that if I could bring the man here that I could prove positively that he issued my license; there's his certificate.
Q That signature is simply attached to the marriage certificate, not to the license.

Case continued by agreement to May 6th, 1902, in order that the applicant may introduce further testimony as to having procured a Cherokee marriage license.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G Croninger

Subscribed and sworn to before me this 22nd day of April, 1902.

F G Fuller
Notary Public.

COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 1 1902

ACTING CHAIRMAN

D. 307.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 5, 1902.

In the matter of the application of William H. Hall for the enrollment of himself as a citizen of the Cherokee Nation.

SUPPLEMENTAL TO D-307.

Applicant present in person.
Cherokee Nation represented by W. W. Hastings.

TOM THOMAS, being first duly sworn, testified as follows:

COMMISSION: What is your name? A Tom.
Q Your full name? A Tom Thomas.
Q What is your postoffice address? A Keno, Indian Territory.
Q How long have you resided in the Cherokee Nation? A I have been raised in the Cherokee Nation.
Q Lived here all your life? A All my life.
Q Are you a citizen or a nonciticen of the CherokeeNation? A I am a citizen.
Q By blood or adoption? A By blood.
Q Are you acquainted with the applicant in this case, William H. Hall? A Yes, sir.
Q How long have you known him? A Why I have knew Mr. Hall I guess for fifteen years.
Q Where have you known him? A I have knowed him here in the Territory all the time, right here.
Q Has he lived here all the time? A Ever since I knew him he has.
Q Never lived anywhere else since you know him, the last fifteen years? A No, sir.
Q Still living in the Cherokee Nation is he? A Yes, sir.
Q Do you know whether or not he is a married man? A Yes, sir, he is a married man.
Q That's his wife's name? A I'll declare I don't know whether I can call it or not; I know her; know her name, but it has slipped my mind.
Q Was it Martha? A Yes, sir, Martha that's her name.
Q How long have they been married? A Wellthey was married when I first knew them.
Q Then you first knew them; they were married before you knew either one of them were they? A Yes, sir.
Q You don't know anything about where they were married? A No, I don't; that is, before I knew them I don't.
Q Is she a citizen of the Cherokee Nation? A Yes, sir.
Q By blood or adoption? A I suppose so, by blood, that's established that way I think.
Q Do you know anything about her marrying under a Cherokee license? A Well nothing more than he come to me with his petition and I signed his petition and I supposed they married.
Q You wasn't present at the second marriage? A No, sir.
Q All you know is that you signed the petition for him in order to get out a license under the Cherokee law? A Yes, sir.
Q Did you ever see that petition after you signed it? A No, sir, I never did.
Q You don't know what he did with it, do you? A No, I don't.
Q You don't know whether any license was ever issued? A No, sir, I don't.
Q Who else signed the petition with you; do you remember anybody

else? A Why I don't remember but two or three or four signers: it's been so long ago of course I didn't remember, didn't try to keep track of it. I know of two or three that signed it that lived right by me, right close.
Q Just give the names? A Joe Mankrat, was one that signed it; and Simpson Melton and myself was about all that I remember; we all lived right there right neighbors together, and he come around there and we signed his petition.
Q How long had you known him when you signed that petition? A Well I guess I had knew him, must have been somewheres about four or five years, maybe a little longer, I couldn't tell just how long.

SIMPSON F. MELTON, being first duly sworn, testified as follows:

COMMISSION: What's your name, full name, please? A Simpson F. Melton.
Q What's your postoffice address? A Vinita.
Q Are you a citizen or noncitizen of the Cherokee Nation? A Citizen.
Q By blood or adoption? A By blood.
Q How long have you lived in the Cherokee Nation? A Well about fifty years now.
Q Virtually all your life? A Yes, sir, that's my age.
Q Are you acquainted with the applicant in this case, William H. Hall? A Yes, sir.
Q How long have you known him? A Oh seventeen or eighteen years now.
Q Where have you known him? A I know him in Delaware District in the Cherokee Nation.
Q Where has he lived during all the time you have known him? A Well he has lived around from Delaware District to Coowescoowee District.
Q Lived in the Cherokee Nation ever since you known him? A Yes, sir.
Q Never has lived outside of the Nation? A Not to my knowing.
Q How far have you lived from him? A Some of the time lived right there neighbors and some of the time fifty miles.
Q Well during the time he lived so far away from you did you see him frequently? A Oh probably once a year or along that way.
Q Do you know whether or not Mr. Hall is a married man? A He was married when I first knew him.
Q Do you know who his wife was before he married her, or what her maiden name was? A I think it was Parris. That was my understanding.
Q You never knew his wife before he was married to her? A No, sir.
Q Well then as I understand you he was married when you first knew him? A Yes, sir.
Q Do you know where he was married? A Don't know anything about that.
Q Well all you know, that he and his wife were living together as man and wife when you first got acquainted with him, is that it? A Yes, sir.
Q Do you know anything about him taking out a Cherokee license after the time you knew him, to marry his wife under the Cherokee laws?
A Why I know that he was making an effort to take them out, he had a petition and I signed his petition; that's as far as I know about it.
Q You signed the petition for Mr. Hall to secure a Cherokee license under the requirements of the Cherokee law, did you? A Yes, sir.
Q Do you know how many people signed that petition? A Why I couldn't say. It appears to me like there was several names on before I

signed it; yet it's been a good while ago.
Q Do you remember any others that signed it besides yourself? A Why I remember one or two, Joe Muskrat at Afton, signed it; I remember that. I wouldn't be sure, but what my father signed it; I am not positive; he is dead now.
Q Where were you when you signed that petition, in town or out in the country? A Oh I was in the country.
Q He just came to your house and brought the petition? A Yes, sir.
Q Did you ever see that petition after you signed it? A No, sir, I never seen it after I signed it.
Q Do you know what he did with it? A No, sir.
Q Do you know whether any Cherokee license was ever issued to him in accordance with the petition? A I couldn't say whether there was or not.
Q Do you know whether or not he was ever married under a Cherokee license? A Why I didn't know; I presume he was of course.
Q I don't care for presumptions? A Of course I never seen him married; it was the understanding generally that he had married.
Q That was simply the understanding, but you don't know anything about that of your own knowledge? A No, sir, not to my own knowledge.
Q All you know about what [illegible] after you signed the petition is simply hearsay? A All hearsay.

Commission: Do you submit the case to the Commission for final consideration now upon the testimony and the record as now made up?
Wm. H. Hall: Yes, sir.
Commission: Does the Cherokee Nation desire to offer any further testimony or submit it?
Mr. Hastings: We submit it upon the record and testimony already on file.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 7th day of May, 1908.

F. J. Reuter
Notary Public.

FILED
MAY 22 1902

ACTING CHAIRMAN

R.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, September 29th, 1902.

In the matter of the application of William H. Hall for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

Supplemental to D-307.

Appearances:

Applicant appears in person.
Cherokee Nation by J. C. Starr.

WILLIAM H. HALL, being duly sworn, testified as follows:

Examination by the Commission.

Q. What is your name? A. William Hall--W.H.
Q. What is your age at this time? A. Why, 60--a little over 62.
Q. What is your post office address? A. Afton, I.T.
Q. Are you the same William H. Hall who made application to this Commission for enrollment as an intermarried citizen in 1901?
A. Yes, sir.
Q. What is your wife's name? A. Martha Childers; that was her maiden name.
Q. Is she living? A. Yes, sir.
Q. Is she a citizen by blood of the Cherokee Nati on?
A. Yes, sir.
Q. When were you and she married? A. We were married right along about 1890. That is married over. I don't remember just the date.
Q. You were married under the Cherokee law in the year 1890?
A. Yes, sir.
Q. Were you married to her previous to that under the United States law? A. Yes, sir.
Q. Were you ever married prior to your marriage to this wife?
A. No.
Q. Was she ever married prior to her marriage to you?
A. No.
Q. You are her first husband? A. Yes, sir.
Q. She is your first wife? A. Certainly.
Q. Have you lived with her as her husband since 1890 up to the present time? A. Yes, sir.
Q. And was living together as husband and wife on the first of September, 1902? A. Yes, sir. Still living together.
Q. You never married any other woman since you married this woman? A. No, sir.
Q. Did you and her ever separate? A. No, sir.
Q. How long have you lived in the Cherokee Nation? A. Well, I been here something over 20 years. I have been in the Cherokee Nation 40 years.
Q. Have you resided here continuously since 1880? A. Yes, sir.
Q. How long has your wife lived here? A. She was born and raised here.
Q. Lived here all her life? A. Lived here all her life.
Q. Have you any children? A. Yes, sir.
Q. How many? A. Just one boy; Benjamin.
Q. Is he still living? A. Yes, he is living.
Q. Living in the Cherokee Nation? A. Yes, sir.
Q. He is on the card with his mother? A. Yes, sir.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 3rd day of October, 1902.

B. C. Jones
Notary Public.

FILED

OCT 3 1902

Cherokee D-207.

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

In the matter of the application for the enrollment of WILLIAM H. HALL as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 17,1900, William H. Hall appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself,among others, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on April 17, 1902, on May 6, 1902, and again on September 29, 1902. The other parties to the application are differently classified, and are not embraced in this decision.

The evidence shows that the said William H. Hall, a white man, was lawfully married on May 16, 1893, in accordance with the laws of the Cherokee Nation, to Martha Hall, a citizen by blood of the Cherokee Nation, who was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation, on September 28, 1887. The said William H. Hall was unable to submit, as evidence of his marriage under Cherokee law, a Cherokee marriage license, and it appears from the certificate of the Assistant Executive Secretary of the Cherokee Nation that no record of said marriage can be found. However, it appears from the evidence that the said William H. Hall complied with the laws of the Cherokee Nation respecting the marriage of white men and Cherokee women. The said William H. Hall is identified on the Cherokee Census Roll of 1896.

The evidence further shows that the said William H. Hall has lived with his said wife in the Cherokee Nation continuously from the date of his marriage to her up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that William H. Hall should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898,(30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIG.) Tams Bixby
Acting Chairman.

(SIG.) T. B. Needles
Commissioner.

(SIG.) C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this NOV 20 1902

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 307.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, November 20, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 20, 1902, granting the application of William H. Hall for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enclosure H. No. 25.

307

IN THE MATTER OF THE APPLICATION OF

William [illegible]

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 17, 1900
B. Memo application " 17, 1900
C. Certificate of Cert. for intermarriage license & certificate
D. Letter relative " "

Final consideration

H. Order closing testimony Feb. 24, 1902

See Shadley report

Application Denied

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., SEPTEMBER 17th, 1900.

In the matter of the application of Katie Hardnighird and child for enrollment as citizens of the Cherokee Nation, and the being sworn by Commissioner, C. R. Keedon, testified as follows:

Q What is your name? A Katie Hardnighird.
Q What is your age? A Twenty two.
Q What is your Postoffice? A Watova.
Q What district do you live in? A Delaware.
Q Are you recognized citizen of the Cherokee Nation? A Yes sir.
Q Married? A No sir.
Q Intermarriage? A Yes sir.
Q Your father and mother are white persons? A Yes sir.
Q How many children? A One child and baby.
Q What is your husband's name? A Noah Hardnighird.
Q Is a Cherokee citizen by blood? A Yes sir.
Q When were you married to him? A The Spring of 1899.
Q Have you any certificate of marriage? A I have it in the Clerk's office; I have not here.
Q In March in 1899, were you married? A April.
Q Have divorced from him? A No sir.
Q Are you married? A Yes sir.
Q Did you abandon him? A No sir.
Q Did he leave him, or did he leave you? A I left him.
Q Why? A Because he would not give me any home to go to.

Q Mr. J. J. Lolo Lego, Commissioner;
Q What sort of a home did he have when you married him?
A When I was married, he was living with fellows who were robbers and thieves.
Q He did not have any money, or not a home with? A I do not know.
Q You say he did not have any when you married him?
A Yes sir.
Q He was living, when you left him, about in the same condition as I gather that he was when you married him? A Yes sir.
Q Did he support you? A No sir.
Q What did you think he had to support you on when you married him? A He told me he had money to fix me a home; the time he laid by the crop he would fix me a home.
Q What did you was he living on? A His brothers.
Q When you left him? A No sir.
Q What about was he living on then? A Thompson's.
Q Did you have any home of your selves? A No sir.
Q Who were you living with? A Marcus Thompson.
Q He did not treat you unkindly, did he? A No sir.
Q You were paid a salary to work and plenty to wear, were you not?
A Yes sir; such as it was. I worked out the first winter I was married.

By the Commission:
Q You say you worked out the first winter you were married?
A Yes sir.
Q What was the reason you left him? A Because he would not give me a home to go to.
Q Did he support you; furnish you with food, and clothes?
A No sir.
Q What business was he in? A He was a farmer.
Q You say he is living? A Yes sir.
Q Who is the father of the child? A Noah Hardnighird.
Q How old? A Three years old.
Q Is that your child by him? A Yes sir
Q Is Noah Hardnighird the father of the child? A Yes sir.
Q You say you have no certificate of marriage? A Not here.
Q Can you get one? A Yes sir.

Q Did your husband ever go by any other name besides Hummingbird?
A No sir; not that I know of.

(1894 Roll, Page 444, #808, Dick Hummingbird, Saline District)

The applicant avers that she was married to one, Dick Hummingbird, a Cherokee citizen by blood, in the Spring of 1896; She presents no certificate of marriage; neither does her name appear upon the census roll of 1896, and the name of Dick Hummingbird is not found on the authenticated roll of 1880, but is found on the Payroll of 1894, as indicated in the testimony. The applicant avers that she is separated from her husband, having left him of her own accord; and that she has a child, born unto her by her said husband, named Mary, three years old, but presents no certificate of birth.

Final judgment as to the enrollment of the said Katie Hummingbird and her child, Mary Hummingbird will be suspended, and her name, and that of her child, will be placed upon a "Doubtful Card", awaiting proof of birth of the said Mary, and proof of marriage of the said Katie, and more satisfactory proof as to the cause of the separation.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

A R Crowell

Subscribed and sworn to before me this 17th day of September, 1900.

COMMISSIONER.

D308

Supl.-C.D.#308.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T.? February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of KATIE HUMMING-BIRD as a citizen of the Cherokee Nation:

Mr. W. W. Hastings, Cherokee Representative, present.

The applicant was notified by registered letter February 6, 1902, that her case would be taken up for final consideration by the Commission on the 24th of February, 1902, and that she would on said date be given an opportunity to appear before the Commission and introduce any further testimony affecting her case. She has been called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for final decision based upon the evidence now on file.

Commissioner/

J.O.R.

ATTORNEYS
W. W. HASTINGS
J. L. BAUGH
J. C. STARR, SECRETARY

OFFICE OF

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE ENROLLMENT

Tahlequah I T Feb 17 1902

Mr W. W. Hastings Sir this will in form you that Katy Hummingbird & Dick Hummingbird married July 1876 and has not lived together since and the child was born March 27 1877 this is the fact of that case as she stated to Prowers I was that I did by sold Coal Oil to the home

Mr Jack Gardner tell me that he stood with Frances Ross near B Miles the other side of Neosho Mo it was between 1875 and 79 he said he stood with her up there when he was skouting from the Marshals I will be at Tahlequah the 21 of this month and I will probably see Mr Bell and I will tell all about it I said the thirty 21 22 of February

Nelson Moore

2304

IN THE MATTER OF THE APPLICATION OF

Katie Hummingbird et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A Original testimony September 17. 1900
B. Memo application " 17. 1900
Notice of final consideration
Order closing testimony, Feb. 24, 1902

OCT 12 1907

See Cherokee Docket 2989

Cher D 309

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., SEPTEMBER 17th, 1900.

IN THE MATTER OF THE APPLICATION OF Hintie Smith and husband for enrollment as citizens of the Cherokee Nation, and she being sworn by Commissioner, T. M. Needles, testified as follows:

Q What is your name? A Hintie Smith.
Q What is your age? A Twenty two.
Q What is your Postoffice? A Oocoee.
Q What district do you live in? A Delaware.
Q Are you enrolled as a citizen of the Cherokee Nation? A Yes sir.
Q By blood or intermarriage? A By blood.
Q What degree of blood you claim? A One eighth, I suppose.
Q What roll are you on? A Myself and husband.

Q Your father living? A Yes sir.
Q Your mother? A Yes sir.
Q What is the name of your father? A Henry L. Hill.
Q Is he living? A No sir.
Q What is the name of your mother? A Eliza J. Hill.
Q Is she living? A Yes sir.
Q What is your husband's name? A Joseph P. Smith.
Q What is his age? A Twenty six.
Q What is his postoffice? A Oocoee.
Q Is he living? A Yes sir.
Q Have you any other claims of citizenship? A Yes sir.
Q State that I have a certificate of marriage license and certificate of marriage, certifying that she was married to one, Joseph P. Smith, a white person, on the 26th of June, 1894.
Q Are you living with your husband at this time, are you?
A Yes sir.
Q How long have you been in the Cherokee Nation? A About two years.
Q Where did you live before that? A In Washington Territory.
Q Were you married in Washington Territory? A No sir; we were married here in the Territory.
Q Have you at any time lived here in Washington Territory over night? A I was there part of the time.
Q How long have you lived in the Cherokee Nation? A I lived here all of my life, until I was married.
Q When you were married, you have lived in Washington Territory, until two years ago? A Yes sir.
Q Until two years ago? A Yes sir.
Q You were home with your husband? A Yes sir.
Q He lived there? A Yes sir.
Q Was all of you there; voted there? A Yes sir.
Q And you and he moved back two years ago? A Yes sir; a little over two years ago, but I owned land here, and part of my children were here.
Q Have you any children? A No sir.
Q You testified before you were married was Hill, was it? A Yes sir.

(See Roll, Page 269, Delaware District)
(See Roll, Page 528, 2234, Hintie Amelia Smith, Delaware)
(See Roll, Page 583, 2446, Joseph P. Smith, Delaware District)

Q In your case Hintie Amelia? A Yes sir.
Q Hintie Amelia Smith, then? A Yes sir.

The name of Hintie Smith appears upon the authenticated roll of 1896, as Hintie Hill: She presents a regular marriage license and certificate, ~~certifying~~ in due form, certifying that she was married to one, Joseph P. Smith, white person, in the year 1894, and the name of her husband is found on the census roll of 1896, as well as the name of herself. She swears that she has resided with her husband from her marriage, in the State of Washington, until

two years ago: She, not being a resident of the Cherokee Nation on the 28th of June, 1898, as provided by law, final judgment as to the enrollment of herself and husband will be suspended, and her name will be placed on a Doubtful Card, as a Citizen by blood, and her husband upon the same Card as a citizen by intermarriage. During the time of her absence in Washington, she owned land here and part of her clothing was here, and she says that she was in here two or three times during the time.

The undersigned, being sworn by Commissioner, T. B. Needles, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Crawford

Subscribed and sworn to before me
this 10th day of September, 1906.

C M Bruce

COMMISSIONER.

D 309

Supplemental testimony to go with D Card #309.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 24, 1900.

Supplemental testimony in the matter of the application of J. P. Smith and wife for enrollment as citizens of the Cherokee Nation:

J. P. Smith, being duly sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name?A J. P. Smith
Q What is your age? A 36.
Q What district do you live in? A Delaware.
Q What isyour post office? A Oceana.
Q Any statement you want ot make go ahead and make it. A I wish to state that my wife Mittie Amelia Smith, she was in the the Indian Territory in March, 1898, and lived here continually ever since, and we have never had any home only temporarily since we married outside of the Territory.

Examination by Mr. W. W. Hastings, Representative of the Cherokee Nation.

Q When were you and Mary A. Hill married? A 1894, in June.
Q You were away a short time I believe?A Yes, sir.
Q Where were you? A State of Washington.
Q Why did you go there? A I was there learning my trade, a few years before i Married.
Q You lived there more or less of the time until 1898? A Yes, sir, until I finished and I come home.
Q You were backwards and forwards from there up to 1898, znd after 1898 you have lived here continuously? A Yes, sir, we have had no other home except this.
Q She was mistaken when she said your home was there?A Yes, sir.
Q You have a farm here? A Yes, sir, ever since I was married and before.

---ooOOOoo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 25th day of September, 1900.

T B Needles

Commissioner.

D 309

Supl.-C.D.#309.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of JOSEPH P. SMITH as a citizen of the Cherokee Nation:

Mr. W. W. Hastings, Cherokee Representative, present.

The applicant was notified by registered letter February 6, 1902, that his case would be taken up for final consideration by the Commission on the 24th day of February, 1902, and that he would on said date be given an opportunity to appear before the Commission either in person or by attorney and introduce any further testimony affecting his application. Receipt has been acknowledged of Commission's letter, and applicant called three times and fails to respond either in person or by attorney and the case is ordered closed and submitted to the Commission for final decision based upon the evidence now on file.

Commissioner.

J.O.R.

6 b 307

N. A. L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Mintie A. Smith for the enrollment of herself as a citizen, by blood, of the Cherokee Nation, and for the enrollment of her husband, Joseph P. Smith, as a citizen by intermarriage, of the Cherokee Nation.

D E C I S I O N.

--oOo-- --oOo--

The record in this case shows that on September 17, 1900, the applicant, Mintie A. Smith, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself as a citizen, by blood, of the Cherokee Nation, and for the enrollment of her husband, Joseph P. Smith, as a citizen, by intermarriage, of the Cherokee Nation. Thereafter, at Vinita, Indian Territory, on September 24, 1900, supplemental testimony in the matter of this application was taken. On February 24, 1902, the case was closed and submitted to the Commission for final consideration.

The applicant, Mintie A. Smith, is identified on the Cherokee authenticated tribal roll of 1880, and on the Cherokee census roll of 1896. The name of her husband, Joseph P. Smith, appears upon the Cherokee census roll of 1896.

The evidence in this case shows that Joseph P. Smith, a citizen of the United States, was married in the Cherokee Nation, according to the customs and laws of the Cherokee Nation, on the 24th day of June 1894, to "Minta Hill", the maiden name of the applicant in this case, a recognized citizen of the Cherokee Nation.

It further appears from the evidence that a few years before his marriage to the applicant in this case, Joseph P. Smith was learning his trade in the State of Washington. After his marriage in 1894, he was there more or less of the time until he finished

learning his trade in 1898, when he came "home" to the Indian Territory. Mintie A. Smith was in Washington part of the time with her husband, but all the time "owned" land in the Cherokee Nation, left "part of her clothes " there, and has lived continuously in the Cherokee Nation since March 1898.

In making rolls of citizens of the Cherokee Nation this Commission is governed by the provisions of the Act of Congress approved June 28, 1898. (30 Stats. 495.)

It is therefore the opinion of this Commission that Mintie A. Smith is lawfully entitled to be enrolled as a member, by blood, of the Cherokee Tribe of Indians, in Indian Territory, and that Joseph P. Smith is lawfully entitled to be enrolled as a member, by intermarriage, of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this MAY 20 1902

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

D-509.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Mintie A. Smith for the enrollment of herself and husband, Joseph P. Smith, as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-509.

IN THE MATTER OF THE APPLICATION OF

Joseph C. Smith et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A-Original testimony-September 17, 1900
B-Memo of application " 17, 1900
C. Marriage License and certificate
D-Supplemental testimony-September 24, 1900
E Notice of final consideration
F Order closing testimony, Feb. 24, 1902

[illegible]

[illegible]

Cher D 310

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
TAHLEQUAH, I. T., SEPTEMBER 17th, 1900.

IN THE MATTER OF THE APPLICATION OF Gertrude Florence Flint for enrollment as a citizen of the Cherokee Nation, and she being sworn by Commissioner, T. M. Needles, testified as follows:

Q What is your name? A Gertrude Florence Flint.
Q What is your age? A Twenty one.
Q What is your Postoffice? A Seneca, Missouri.
Q What district do you live in? A I do not live in the Territory now; my parents live in Delaware District.
Q Where do you live? A Seneca, Missouri.
Q In the State of Missouri? A Yes sir.
Q How long have you lived in Missouri? A All my life.
Q Were you born there? A No sir; I was born in the Indian Territory at the Quapaw Agency.
Q Are you a Cherokee? A A Cherokee by adoption; my father was a Shawnee.
Q Does your name appear upon the rolls of 1880? A No sir.
Q Does your father's name appear upon the rolls of 1880? A No sir; I think not.
Q For whom do you apply for enrollment? A Myself?
Q Any one else? A No sir.

(Shawnee Pay Roll, 1894, Page 16, No. 666, Gertrude F. Flint)

By Mr. T. M. Buttrick, Cherokee Representative:
Q Is your father living now? A Yes sir
Q He has been living since you were born in what is termed the Quapaw Agency? A No sir; he has lived in Seneca most of the time.
Q He has never lived in the Cherokee Nation, since you were born? A No sir.
Q Did he not take lands for himself and for you, when the lands were allotted in the Quapaw Agency? A No sir; papa lived here before that, and had his rights here.
Q He has claimed rights there, has he not; and claimed lands? A No sir.
Q Has he ever voted in the Cherokee Nation? A I do not know; I think he has.
Q That was in 1890, when he moved out of the Cherokee Nation? A Yes sir.
Q He has never moved back since? A No sir; we have land at Seneca.
Q Deed or town property? A Deed.
Q When did he make that deed? A About five or six years ago; I am not certain.

By the Commission:
Q Is your name on the roll of 1896, do you know? A Yes sir.

By Mr. T. M. Buttrick, Cherokee Representative:
Q You yourself never lived in the Cherokee Nation at all? A No sir.

By the Commission:
(1896 Roll, Page 602, No. 149, Gertrude F. Flint, Delaware District)

The name of Gertrude Florence Flint appears upon the census roll of 1896; Her name also appears upon the Shawnee Pay Roll of 1894. She avers that she resides, and has all her life, in the State of Missouri: Final judgment as to the enrollment of the said Gertrude Florence Flint will be suspended, and her name will be placed on a "Doubtful Card", because of the question of her residence.

The undersigned, being duly sworn, states that he stenographically reported the testimony and proceedings in the above and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Crawford

Subscribed and sworn to before me this 1st day of September, 1900.

C Brewin

COMMISSIONER.

D-310

D. 510.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of Gertrude F. Flint for the enrollment of herself as a citizen of the Cherokee Nation.

Applicant represented by S. S. Clover, Vinita, I.T.
Cherokee Nation represented by W. W. Hastings.

F. G. BROWNING, being duly sworn, testified as follows:

COMMISSION: What is your name? A F. G. Browning.
Q Where do you live? A Seneca, Missouri.
MR.CLOVER: What relationship exists between you and Gertrude F. Flint? A Sister-in-law.
Q Who was her father and mother? A Levi Flint and Stella A. Flint.
Q Is she married or a single woman? A Single.
Q Do you know whether she was enrolled on the Dixon roll? A Yes, sir.
Q Did she receive any pay from that? A Yes, sir.
Q Do you know whether she was ever enrolled on the Wallace roll? A Yes, sir.
Q Did she receive pay from that? A Yes, sir.
Q Do you know whether she has joined any other tribe or nation than the Cherokee-Shawnees? A No, sir.
MR.HASTINGS: Does she live in Seneca now? A No, sir, she is in Wisconsin.
Q How long has she been there? A Two years.
Q And she went from Seneca, Missouri, up there? A Yes, sir. No, I believe she went from Lawrence up there.
MR.CLOVER: Is she a government employe or not? A Yes, sir, teaching up there.
MR.HASTINGS: She never did live in the Cherokee Nation according to her own statement, is that true? A No, she never did.
COMMISSION: The attorney for the applicant will be granted fifteen das in which to furnish the Commission with certified copies of the Dixon roll and Wallace roll of Cherokee-Shawnees.
You submit this case to the Commission for final consideration?
MR. CLOVER: Yes, sir.
COMMISSION: The attorney for the applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration. The same is ordered closed, and reported to the Commissionfor a decision based upon the evidence now filed, in addition to the certified copies of the rolls above requested.

Arthur G. Groninger, being duly sworn, states that as stenographer to the Commission to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Groninger

Subscribed and sworn to before me this 28th day of February, 1902.

Commissioner.

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 9, 1902.

In the matter of the application of
Gertrude F. Flint for enrollment as
a citizen of the Cherokee Nation of
Shawnee blood. Cherokee D. 310.

Brief on behalf of the Cherokee Nation.

The applicant was twenty-one years of age when she made application on September 17th, 1900; she has never lived in the Cherokee Nation; she was born, she states, in the Quapaw Agency, and about a year thereafter moved to Seneca, Missouri, where she was living at the time she made this application for her enrollment, and where she had continued to live since her removal there about twenty years ago.

We have briefed her father's case, Levi C. Flint, on Cherokee Doubtful card No. 315, to which reference is made in this case. The applicant has never had any improvements of her own within the Cherokee Nation. She is now temporarily employed by the government, but her employment has been since she made this application and while she was a resident of the state of Missouri. Section 21 of the Curtis Bill provides:"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship", and we submit that under the provision of this act the applicant is not entitled to be enrolled.

Reference is made to the brief filed in the case of her father, Levi C. Flint, Cherokee Doubtful No. 315.

Respectfully submitted,

Attorney for the Cherokee Nation.

Cherokee D 316

H. A. L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Gertrude F. Flint for the enrollment of her self as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 17, 1900, the applicant, Gertrude F. Flint, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself as a citizen of the Cherokee Nation. Thereafter, on February 24, 1902, at Muskogee, Indian Territory, further evidence in the matter of this application was heard, and the case was submitted to the Commission for final consideration and ordered closed.

The evidence in this case shows that neither the name of the applicant, Gertrude F. Flint, nor that of her father, an adopted Shawnee , appears upon the Cherokee authenticated tribal roll of 1880. The applicant is identified on the Wallace and Dickson rolls of Shawnee-Cherokees, and also upon the Cherokee-Shawnee Pay roll of 1896, and the Cherokee census roll of 1896.

It also appears from the evidence that the applicant, Gertrude F. Flint, has never lived in the Cherokee Nation. Born at the Quapaw Agency in the Indian Territory, she was taken at an early age to Seneca, Missouri, and up to the time of her application, had lived there all her life. The applicant at the time of her application was twenty-one years of age.

Paragraph 9, of Section 21 of the Act of Congress, June 28, 1898 (30 Stats., 495), provides that

"No person shall be enrolled who has not heretofore re-

moved to and in good faith settled in the nation in which he claims citizenship: . . . . "

It is therefore the opinion of this Commission that Gertrude F. Flint is not entitled to be enrolled as a member of the Cherokee Tribe of Indians in Indian Territory and that the application for her enrollment as such should be refused and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Acting Chairman.

T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this MAY 27 1902

Cherokee D 310 (R 675).

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Gertrude F. Flint as a citizen of the Cherokee Nation of Shawnee blood.

D E C I S I O N.

The record in this case shows that on September 17, 1900, Gertrude F. Flint appeared before the Commission at Vinita, Indian Territory, and made application for enrollment as a citizen of the Cherokee Nation of Shawnee blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, February 24, 1902. The record further shows that on May 27, 1902, the Commission rendered its decision denying said application, which decision was approved by the Department September 13, 1902; that on March 12, 1903, a motion to reopen said case was filed; that the Department, having on March 23, 1903, allowed said motion, remanded said case on April 11, 1903, for further proceedings and readjudication; and that on May 25, 1903, further proceedings were had therein at Tahlequah, Indian Territory.

The evidence shows that the applicant was twenty-one years of age at the date of this application; that she is a daughter of Levi C. Flint, who is identified on the register of Shawnee Indians who removed to and located in the Cherokee Nation within two years from the ninth day of June, 1869, in accordance with an agreement entered into by and between the Shawnees and the Cherokees, approved on said date; and that said applicant, Gertrude F. Flint, is identified on the Wallace and Dickson rolls of Shawnee-Cherokees, on the Cherokee-Shawnee pay roll of 1896, and on the Cherokee census roll of 1896.

The evidence further shows that the applicant was born at the Quapaw Agency in Indian Territory, and shortly afterwards was taken to Missouri where she has since resided with her father. It further appears that in 1896, while the applicant was a minor, her father purchased an interest in an improved farm in the Cherokee Nation for her and with her money, and that she has since maintained possession and ownership thereof.

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Ora M. Camp (I.T.D. 1418-1903), that the said Gertrude F. Flint should be enrolled as a citizen of the Cherokee Nation of Shawnee blood, in accordance with the provisions of section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,
this MAR - 5 1904

Cherokee D., 210.

GERTRUDE FLORENCE FLINT,

Cherokee-Shawnee, Age ~~22~~ 21.

Gertrude Florence Flint, age 21, daughter of Levi C. and Stella A. Flint, a Cherokee-Shawnee by birth and blood, was born in the Quapaw Agency, Indian Territory, while her father was there as a Government Blacksmith.

Moved to Seneca, Mo., and lived with her parents.

Is now a Government Employe.

Her name is not upon the Roll of 1880, nor upon the Cherokee Shawnee Register Roll of June 10, 1871, because of birth. born after roll

She is on the Cherokee-Shawnee Roll made by J. W. Wallace

358, Flint, Gertie F.

On the Cherokee-Shawnee Roll made by J. G. Dickson:

316, Flint, Gertie D.

On the Cherokee Census Roll ~~made by J. G. Dickson~~ of 1896:

149 Gertie F. Flint, Delaware District.

On the Cherokee-Shawnee Roll made ~~by~~ under Act of the Cherokee National Council Approved March 30, 1896, known as Lipe Roll,

346, Gertrude F. Flint.

Her father owns a farm in the Cherokee Nation, and she has always lived with his family. She never lived in the Cherokee Nation, but she never belonged to any other Nation or Tribe but the Cherokee Shawnees.

These applicants are Cherokee-Shawnees by blood, who became citizens of the Cherokee Nation "on equal terms in every respect with Native citizens."

15th Article Treaty July 19, 1866.

BLACKFEATHER vs CHEROKEE NATION, 155 U. S. 218.

They became citizens of the United States by operation of law, but their Tribal and other property rights are protected,

24 Stats. at L. 390, Amended March 3, 1901.

25 ,, ,, 892.

And previous to the passage of said laws, they could not become citizens of the United States.

ELK vs WILKINS, 112 U. S. 94.

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and become a citizen of any other Government, all his rights and privileges as a citizen of this Nation shall cease."

CHEROKEE CONSTITUTION, Art. 1, Sec. 2, p. 12, Cherokee Laws.

"To remove out of the limits with his effects must mean all; not part. The decisions of the Courts of this Territory hold that the improvements on the public domain are personal effects. The citizen to remove and join any other government must be of age, free and his own master, and not a wife, minor, in competent, or under control or restraint. He must have the necessary qualifications to comply with the law of naturalization of the "other government." He must join another government and remove his allegiance to the Cherokee Nation.

The temporary residence under the jurisdiction of the "other government" does not make him a citizen thereof, any more than a residence of a Creek Indian in the Cherokee Nation makes him a citizen of the Cherokee Nation and entitled him to participate in the final allotment of lands and distribution of the common property of the Nation.

This ~~These~~ applicant~~s~~ has ~~have~~ never joined "any other Government," nor has ~~have~~ the ~~they~~ ever received any payments or allotments of land among any tribe or Nation.

"He must not only remove his effects, but he must become a citizen of another government."

ASSIS'T. ATTY. GEN'L. LITTLE, 8th ANNUAL REPORT.

Are we to judge by the practice in the Cherokee Nation? Then the evidence of D. W. Bushyhead, ex-Principal Chief of the Cherokee Nation, before the Clifton Commission, Freedman Enrollment, 1896, shows that he went to California in 1849, leaving effects in the Cherokee Nation, a slave, horse and saddle. Voted and held office in California, and returned after 10 years absence, and found slave freed, horse dead and saddle lost. He was appointed and served two terms as treasurer of the Cherokee Nation, and was elected and served two terms as Principal Chief, and never was re-admitted.

She ~~These~~ applicant~~s~~ were under restraint and could not act of her ~~their~~ own free will.

That clause of the Cherokee Constitution never intended to destroy the happiness of the marriage relationship by compelling the wife to separate and live apart from her husband and children and to deny herself of his support, under the penalty of the forfeiture of her tribal citizenship, and other property purchased by her pro-rata share of Shawnee funds paid to the Cherokee

Nation. The removal of a minor by guardian or parents does not de-citizenize the minor until he becomes of age and makes his choice.

Indian Children born in Arkansas or Missouri do not become citizens of these states by reason of their Indian allegiance, but their parents must be citizens of the United States to be a bona fide citizen of either state. The act of temporary residence of their parents did not constitute them bona fide citizens of Missouri, for their parents were not citizens of the United States, and could not be made a citizen thereof unless by some special act of Congress or a Treaty stipulation. The authorities on this question are undisputed.

Even after the parents became citizens of the United States by reason of the Act of Congress, as Amended March 3, 1901, all their Tribal property and rights were preserved for them. Indian children born in the Cherokee Nation do not become Cherokee citizens.

By the laws of the white man, the sins and omissions of the parents are visited upon the heads of their children. Strange to say, but by Indian law, more particularly the Cherokee laws, are always in favor of their children. They abound with "Provided, That nothing in this Act shall bar minors and orphans."

"The descendants of Cherokee men by all free women, whose parents may have been living together as man and wife," p. 14, Cherokee laws, and Sec. 682, p. 346.

Unlawful marriages are absolutely void, but, "Provided That the issue from such marriage shall nevertheless be legitimate; provided, also, that when a man, having by a woman

one or more children, shall afterwards inter-marry with such woman, such child or children, if recognized by him, or PROVEN to be his, shall thereby be legitimate." Or page 207, in regard to wills, "saving to minors and persons' non-compus mentes' one year to contest such will, after the removal of their disabilities."

The Indian loves and protects his children and their rights and no better example can be shown than by reading exhibit "G" being an authenticated copy of the decision by the Tahlequah Circuit Court, Cherokee Nation, in the case of Johnson vs. Harris, Principal Chief.

This ~~These~~ applicant~~s~~ in view of ~~their~~ her rights, and not for the purpose of denying rights to others, call your attention to the fact that almost all of the Cherokees born prior to the Civil war, did remove with their effects out of this Nation, and that large numbers of the births during 1861 to and including 1868, took place in the neighboring States, Territories or Tribes, out of the jurisdiction and "limits" of the Cherokee Nation, and that the records of the National Council fail to show their re-admission; and their sole claim now rests upon the authority of Congress in making the "Authenticated Roll" as evidence of their Cherokee citizenship, but this ~~these~~ applicant~~s~~ do not ask or pray that you strike them off the final Roll by reason of their non-residence or misfortune of birth, or the disregard of the National Council in not re-admitting them to citizenship, but pray that the reasons and facts given will aid them in their petition for enrollment. Are not these quotations of Cherokee Constitution and law seemingly out of place in face of this Section of the Curtis Act? :

"Sec. 28. That on and after the passage of this Act the laws of the various Tribes or Nations of Indians shall not be enforced at law or in equity by the Courts of the United States in the Indian Territory."

The commission, acting in the capacity of a Court for

the enrollment and as judges of the rights of the applicants, cannot enforce the Cherokee Constitution and laws against the rights of these applicants whose claims rest on Art. 15, Treaty July 19, 1866.

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."—Curtis Act.

This applies to State, Territorial, and Tribal boundaries, and makes absolute, without previous notice the confiscation of the property and rights of all Indians who were absent prior to June 28, 1898.

"No person shall be deprived of life, liberty or property without the due process of law."—Fifth Amendment to Constitution.

"This Article is a restraint upon the legislative as well as the executive and judicial branches of the government, and cannot be so construed as to leave Congress free to make any process 'due process of law.'"

"These words generally imply and include regular allegations, opportunity to answer, and trial according to some settled course of judicial proceedings."

MOWRRY vs HOBOKEN L. & I. Co.—18 Howard 306.

The striking off of the names of these applicants from the rolls forever prevents them from participation in the final allotment of lands and other common property of the Cherokee Nation, and confiscates their present holdings without compensation or "due process of law."

This ~~These~~ Indian applicants became citizens of the United States by virtue of the Acts of Congress.

24 Stat. at L., 390, Amended March 3, 1901.

"Every Indian in the Indian ~~Country~~ Territory, is hereby declared to be a citizen of the United States, and is entitled ~~entitled~~—

to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, or otherwise, member of any Tribe of Indians within the Territorial limits of the United States, without in any manner impairing or otherwise affecting the rights of any such Indian to Tribal or other property."

By the law quoted Congress (by implication) repealed that portion of the Curtis Act, "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation to which he claimes citizenship." These applicants were granted "all the rights, privileges and immunities" of citizenship of the United States.

There is no law compelling citizens of the United States to remove to and settle in good faith in the States, Territory or Nation in which he claims citizenship. All citizens of the United States were privileged on June 28, 1898, and at all times before and since, to move to and reside in any State or Territory, without any forfeiture of any of their rights or property.

If that part of the Curtis law is now in force, then these applicants, citizens of the United States, are denied some of the rights, privileges and immunities " that they should enjoy and are entitled to.

The Tribal rights of these applicants are protected by said amended Act, "without in any manner impairing or otherwise affecting the rights of any such Indian to Tribal or other property."

This amended act repealed the destructive and unconstitutional clause of the Curtis Act quoted, or otherwise these applicants are denied their rights to "Tribal or other property" without "due process of law" contrary to the Act making them citizens.

S S Glover Atty for
Gertrude F. Hirst

(Copy)

Exhibit G.

At the regular term of the Circuit Court of Tahlequah District, C. N., Sept. 5th, 1895, in the case of J. B. Johnson et al, vs C. J. Harris, Principal Chief, etc;

That parties having submitted a statement of the facts in the case to which both agree, for a decision by the Court. Upon examination of the statement of facts the Court finds that it is alleged and admitted that plaintiffs are of Cherokee blood, and at one time owned an improvement and lived on it in Cooweescoowee District, this Nation, and were citizens thereof; and in 1884 removed out of the limits of this Nation into the Osage Nation; and it is further admitted that the wife and children are part Osage by blood, and [illegible] they participated in the per capita payments to the Osage people; and that J. B. Johnson [illegible] knew [illegible] at the "Strip" payment among the Cherokee people. It is evident to the Court that the wife, being of the age of [illegible] years and being a citizen of the Osage Nation by virtue of being a citizen of the Cherokee Nation, and in the exercise of that right of choice she has identified herself with the Osage people, and became a recognized citizen thereof, thereby [illegible] all rights of citizenship in this Nation. As the Court holds that the wife in this case being of Cherokee and Osage blood both, cannot hold and exercise the rights of citizenship in the Cherokee and Osage Nation both at the same time. She must identify herself with one or the other. As to the rights of such children as J. B. and Julia L. Johnson might have had born to them prior to their removal to the Osage Nation, being natural born

citizens of this Nation by virtue of their Cherokee blood, remain unimpaired, they being minors and their rights of citizenship in this Nation being vested by the constitution and laws of this Nation, the mere fact of their mother having taken them with her when she went to the Osage Nation does not and cannot divest them of their rights in the Cherokee Nation. There is no power of authority that can divest a minor citizen of this Nation of blood of his rights of citizenship. It is therefore the opinion of the Court that such children of J. B. Johnson and wife as they might have taken with them when they removed to the Osage Nation and are now minors, have not forfeited their rights in this Nation; and that forfeiture of citizenship in this case must be done by a person who is capable of electing as to which of these two Nations they prefer to live in. It must be done voluntarily, and when the children in question reach their majority they will then be competent to elect as to which of these two Nations they prefer to live in; and if they elect to live in the Osage Nation, they will forfeit their rights here; and as to the rights of such children as J. B. and Julia M. Johnson might have had born to them since the mother has been recognized as a citizen of the Osage Nation, the Court holds are wholly identical with those of the mother. They being of Osage blood and born in the Osage Nation are Natural born citizens thereof by virtue of their Osage blood and have no rights in the Cherokee Nation whatever; and judgment is hereby ordered accordingly.

H. L. LANDRUM,

Judge Presiding.

R O L L S.

Under the same Act of Congress John W. Wallace made the Rolls of the Shawnees, Delawares, and Freedmen, and the Court of Claims recognized the validity of these rolls.

30 Ct. of Cl., 180.

The Cherokee National Council passed and Act entitled "An Act to Equalize the Per Capita Shares of the Shawnee Citizens of the Cherokee Nation with the Shares paid the Cherokees by Blood," approved March 30, 1898. The Cherokee Nation by the Principal Chief appointed William Carey, the Shawnee Business Committee appointed Jacob Guthrie, and the Secretary of the Interior appointed James G. Dickson, and this Commission examined each Shawnee applicant and made the roll, throwing off 40 persons, and the roll so made is known as the Lipe Roll.

The Roll of Cherokee-Shawnees, known as the Dickson Roll was made under the decree of the Court of claims in the case of Johnson Blackfeather, Principal Chief of the Shawnee Indians, vs The Cherokee Nation, and the United States. 155 U.S. 218

The Register Roll of June 10, 1871, was made pursuant to the agreement of June 9th, 1869.

The applicants are on these rolls and have been recognized by the Cherokee authorities as Cherokee-Shawnees, entitled to participate in the pro rata payments of money due the Cherokee Nation, and these acknowledgments have a binding force and by these rolls they were acknowledged as Cherokees regardless of residence and place of birth, and the Cherokee Nation is estopped from disputing their claims, except in the case of fraud.

AN ACT TO EQUALIZE THE PER CAPITA SHARES OF THE SHAWNEE CITIZENS OF THE CHEROKEE NATION WITH THE SHARES PAID THE CHEROKEES BY BLOOD.

---------ooOoo--------

BE IT ENACTED BY THE NATIONAL COUNCIL, That there be (and) is hereby appropriated out of the first instalment of the money derived from the sale of the Cherokee Outlet set aside by the act of Congress approved March 3, 1893, to pay the claims of the Shawnees, Delawares and Freedmen, citizens of the Cherokee Nation, the sum of $76,528.00 to be paid the Shawnee citizens of the Cherokee Nation whose names shall appear upon the roll made by the Secretary of the Interior under the terms of the decree entered in the case of Johnson Blackfeather, the Principal Chief of the Shawnee Tribe of Indians vs The Cherokee Nation, et al, in the Court of Claims of the United States. Provided that the said Shawnee citizens of the Cherokee Nation shall, before this provision becomes effective, through their authorized agent or agents, first enter into a written agreement with the Principal Chief of the Cherokee Nation, requesting the Secretary of the Interior to prepare said roll of Shawnee citizens by a Commission of three, one appointed by the Principal Chief of the Cherokee Nation, one by the Secretary of the Interior, and one by the Business Committee. The said Roll to contain the names only of the Shawnee Tribe of Indians and their descendants as became citizens of the Cherokee Nation by operation of the agreement between the Cherokee Nation and the Shawnee Indians dated the 9th day of June, 1869, and who were living on May 5th, 1894, or by the operation of special Acts of the National Council duly complied with by the parties admitted and were living at said date. Provided, however, that the said roll herein auther-

1 red shall show the said Shawnees who were citizens of the Cherokee Nation on April 28th, 1896, November 24,1890, and May 5th, 1894.

2. The said money so appropriated shall be paid said Shawnee Indians by the Treasurer of the Cherokee Nation as soon as said money (fund) shall be available; and said Treasurer shall pay no Shawnee Indian more than an amount of said fund sufficient in addition to what shall be to each Shawnee Indian citizen of the judgment in the case last before mentioned to make the sum paid each Shawnee citizen $295.35. Provided, that no Shawnee admitted or Shawnee child born subsequent to the date as shown in the aforesaid roll shall be entitled to receive the amount or amounts of said payment or payments authorized on said dates by an Act of the National Council, it being the intention to pay the said Shawnees no more than if they were Cherokees by blood. Provided, further, that if the said full amount hereinbefore appropriated in section first is not required, the balance remaining is covered back and retained in the Treasury of the Cherokee Nation.

3. From the sum so above quoted there shall be deducted by said Treasurer the amount the said Shawnee Indians have agreed to pay their authorized attorney in this matter, which shall be paid said attorney out of said fund of the Treasurer as soon as the same is available: also, the sum of $10 0.00 i or so much thereof as shall be necessary for the payment of the services of the Census Commission as hereinbefore provided for, half of said amount to be paid by the Cherokee Nation and half by said Shawnee Indians. Provided, that the expenses incurred in making said payment shall be borne by the said Shawnee Indians out of said amount to be paid them, as provided in this Act.

4. That all acts inconsistent with this Act are hereby repealed.

Approved March 30th, 1896.

....

EXECUTIVE DEPARTMENT, CHEROKEE NATION,

Tahlequah, 9th, 1896.

(S E A L)

IT IS HEREBY Certified that the foregoing is a correct copy of the original.

Witness, SEAL OF THE CHEROKEE NATION.

(Signed) JOHN L. ADAIR,

Executive Secretary.

Cherokee D 310

Gertrude F. Flint

D Sloan
Atty

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES. Cher. D-810.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes in the matter of the application for the enrollment of Gertrude F. Flint as a citizen of the Cherokee Nation of Shawnee blood.

This decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Very respectfully,

Acting Chairman.

Encl. C-10.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.
ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 310.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, October 4, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date May 27, 1902, rejecting the application of Gertrude F. Flint for the enrollment of herself as a citizen of the Cherokee Nation by Shawnee blood, was affirmed by the Secretary of the Interior on September 13, 1902.

Respectfully,

Acting Chairman.

D.C. 10606-1903

J.P.

DEPARTMENT OF THE INTERIOR.

FHE

WASHINGTON.

I.T.D. 3788-1902
[redacted]-1903
3418- "
LRS

April 11, 1903.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

September 13, 1902, the Department affirmed your decision rejecting the application of Gertrude F. Flint for enrollment as a citizen of the Cherokee Nation.

March 12, 1903, a motion to reopen the case was filed, of which you were advised March 23, 1903.

It appears that the applicant was born in the Quapaw Agency, Indian Territory, and that she was taken at an early age to Seneca, Missouri, and has not since that time resided in the Cherokee Nation; that at the time of the application in this case, about September 17, 1900, she was 21 years of age.

The testimony in this case was taken and your decision and that of the Department were rendered under a different understanding of the provision ~~of~~ in the act of June 28, 1898 (30 Stat., 495), from that expressed by the Department in the case of Clement G. Clarke of March 17,

1903, and the opinion of the Assistant Attorney General of March 16, 1903, in the Yeargain case. The case is therefore remanded for further proceedings and readjudication in the light of said opinion and decision.

The testimony and the papers attached thereto, and arguments filed by the attorneys for the applicant August 25, and September 5, 1902, are herewith inclosed.

Respectfully,

(signed) Thos Ryan,
Acting Secretary.

3 inclosures.

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209

COMMISSIONERS
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE
WM. O. BEALL
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee R 675

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, June 8, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, granting the application for the enrollment of Gertrude F. Flint as a citizen of the Cherokee Nation of Shawnee blood.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file such protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Encl. V-24

IN THE MATTER OF THE APPLICATION OF

Gertrude F. Flint

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 17, 1900
B. Memo application - " 17, 1900
C. Notice of final consideration
D. Receipt for testimony

E. Supplemental testimony and order closing testimony, Feb. 24, 1902.

Transferred to R-675

7

Cher D 311

Department of the Interior
Commission to the Five Civilized Tribes,
Vinita, I.T., Sept. 17, 1900.

In the matter of the application of Lydia K. Spencer for the enrollment of herself and children as Cherokee citizens, (By Shawnee blood.) Being sworn and examined by Commissioner Needles she testified as follows:

Q What is your name? A Lydia K. Spencer.
Q What is your age? A Twenty-nine.
Q What is your post-office address? A Seneca Missouri.
Q What is your district? A I live in Missouri.
Q Are you a recognized citizen of the Cherokee Nation? A I have a farm in the Cherokee Nation.
Q Are you a sister to this lady that was here before? A Yes sir.
(Note: Lady referred to, Gertrude Flint, Shawnee)
Q How long have you lived in Missouri? A Twenty years.
Q Did you ever live in the Cherokee Nation? A Yes sir.
Q When? A When I was about four years old.
Q For whom do you apply for enrollment? A Myself and children.
Q Are you married? A Yes sir.
Q What was your name before you were married? A Lydia Flint.
Examined by Cherokee Attorney, W.T. Hutchings:
Q Is your husband a citizen of the Cherokee Nation? A No sir.
Q Where did you marry him? A In Seneca, Missouri.
Q You were residing in Seneca at the time that you married him? A Yes sir.
Q He was at that time a citizen of the State of Missouri? A Yes sir.
Q And has continued to be such ever since? A Yes sir, he is dead now.
Q I mean until his death? A Yes sir.
Q He never complied with the intermarriage laws of the Cherokee Nation at all did he? A No sir.
Q What time were you married? A November, 1892.
Q And you did continue to reside with him in the State of Missouri until his death, at that time? A 8th of August 1900.
Com'r Needles: The name of Lydia Spencer is found upon the pay roll of Cherokee-Shawnee citizens, of 1896, #669 page 34.
Q What are the names of your children? A Majel E. Spencer.
Q How old is he? A Seven.
1896 roll page 612 #336 Lydia K. Spencer Delaware District;
Dustin C.
Q How old is he? A Five.
Q What is the name of the next one? A Yvette, she is three years old.
Q Are these children alive and living with you? A Yes sir.
Q What is your husband's name? A John E. Spencer.
Q When were you married to him? A November, 1892.
1896 roll for children, page 612 #---- as Elizabeth K. Spencer Delaware District;
1896 roll page 612 #337 as Calvin D. Spencer, Delaware Dist;
Q Have you proof of birth as to this youngest child? A Not with me.

Com'r Needles: The name of Lydia K. Spencer appears upon the census roll of 1896 and upon the Shawnee pay roll of 1896, and the names of her children, Majel E. Spencer and Dustin C. Spencer also appear upon the census roll of 1896; she avers that she has one child, Yvette, born since the census roll of 1896 was compiled, whose name does not appear thereon; it will be necessary for her in order to complete the enrollment to file satisfactory proof of birth as to said Yvette; she avers also that she resides in the

Lydia M. Spencer et al 2

State of Missouri; these children were born in the State of Missouri, and she and they have always lived there; final judgment as to the application of said Lydia M. Spencer will be suspended and her name and the names of her children will be placed upon a doubtful card. She also avers that she married one John H. Spencer in the year 1882, her maiden name being Lydia M. Flint.

M.D. Green being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this 10 day of September 1900.

Commissioner.

D. 311.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of Lydia K. Spencer for the enrollment of herself and children as citizens of the Cherokee Nation.

Applicant represented by S. S. Clover, Vinita, I. T.
Cherokee Nation represented by W. W. Hastings.

CHARLES B. LAUGHLIN, being duly sworn, testified as follows:

COMMISSION: What is your name? A Charles B. Laughlin.
Q Where do you live, Mr. Laughlin? A I live at Seneca, Missouri.
MR.CLOVER: What relationship exists between you and Lydia K. Spencer? A She is a sister of my wife.
Q Who is the father and mother of Lydia K. Spencer? A Levi Flint and Stella Ann Flint.
Q In what tribe of Indians dothey belong and claim? A They belong to the Shawnees that were admitted to the Cherokee Nation by treaty.
COMMISSION: The name of L. K. Flint appears upon the register of the names of the members of the Shawnee tribe of Indians who removed to and located in the Cherokee Nation, Indian Territory, prior to the 10th day of June, 1871, within two years from the 8th day of June, 1869, in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation of Indians. It appears upon said roll as No. 331.
MR.CLOVER: Do you know of Lydia K. Spencer being enrolled on what is called the Wallace roll? A She was.
Q Do you know whether she drew any money under that Wallace payment? A She did.
Q Do you know if Lydia K. Spencer was enrolled on what is commonly known as the Dixon Roll? A She was.
Q Do you know whether she drew any money for her children? A She did.
Q Has Mrs. Spencer any property in the Cherokee Nation? A She has.
Q What does it consist of? A Farm.
Q Where is it located? A I can't tell where it is located.
Q Have you never been at the farm? A It is though in between, why north east I should judge from my wife's property.
MR. HASTINGS: How do you know that she has one, did she tell you so? A Yes, sir.
Q That the only way you know it? A Well, I was present when it took place, when she bought an improvement.
Q Were you present at the time that she acquired it? A Yes, sir.
Q When was that? A Well, I couldn't give the year now; it's been some—I should judge it has been six, maybe not so long; I was going to say six years, but maybe it ain't so long as that.
Q Five or six years? A Fifs or six.
MR.CLOVER: Well, do you know whether Lydia K. Spencer ever joined any other government than the Cherokee Nation? A No, sir.
MR. HASTINGS: Well, do you know? A Well, she has not; that is what I mean. She has never been identified with any other.
MR. CLOVER: She has never been identified with any other? A Only as a Cherokee Shawnee we always term them.
Q Did she ever draw any allotment over in the Quapaw Agency? A No, sir.
Q Did she ever draw any money from those Indians over there on the pay rolls? A You mean on those in the Quapaw Agency?

Q Yes, sir? A No, sir.

MR.HASTINGS: Where was this woman married? A Seneca, Missouri.

Q Lived there ever since? A Yes, sir, I believe she has.

Q All of her children born there? A Yes, sir.

Q Her husband a citizen of the state of Missouri? A Well, yes.

Q Vote ever there? A Well, I couldn't say as to that; I expect he has.

COMMISSION: The attorney for the applicant will be given fifteen days in which to furnish the Commission with certified copies of the Wallace and Dixon roll of Cherokee Shawnees.

COMMISSION: You submit this case to the Commission for final consideration?

MR.CLOVER: Yes, sir.

COMMISSION: The attorney for the applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now filed, in addition to the certified copies of the roll above requested.

Arthur C. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the foregoing testimony and proceedings, and that the above is a true and complete transcript of his stenographic notes thereof.

Arthur C. Croninger

Subscribed and sworn to before me this 25th day of February, 1908.

Commissioner.

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 9, 1902.

In the matter of the application of
Lydia K. Spencer for the enrollment
of herself and children as citizens of
the Cherokee Nation of Shawnee blood.

Cherokee D. 311.

Brief on behalf of the Cherokee Nation.

Lydia K. Spencer, the applicant, was twenty-nine years of age when she made this application, and her post-office address is Seneca, Missouri; she has never lived in the Cherokee Nation since she was about four years old; she married her husband, who is a white man, in the state of Missouri, where she continuously lived with him up to the time of his death, and she has resided there continuously since that time. She states that he was a citizen of the state of Missouri, and continued to exercise the rights of citizenship he had heretofore exercised in the state of Missouri. All of her children were born in the state of Missouri. She states that she acquired a farm upon the public domain some five or six years ago in Delaware District, but with that exception she has never been identified or owned any property in the Cherokee Nation.

We submit that under the act of Congress which requires a permanent residence in the Cherokee Nation the applicant and her children are not entitled to be enrolled as citizens of the Cherokee Nation. Reference is made to the brief filed in the case of her father by the Cherokee Nation, being that of Levi C. Flint, Cherokee Doubtful No. 315.

Respectfully submitted,

D. W. Hastings,

Attorney for the Cherokee Nation.

Chapter [illegible]

IN THE DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

----oOo----

In re
Application of Lydia F. Spencer, et al., for enrollment as citizens of the Cherokee Nation.

----oOo----

BRIEF ON BEHALF OF APPLICANTS.

Statement of Facts.

Levi C. Flint and Stella A. Flint were members of the Shawnee Tribe of Indians and came to the Cherokee Nation before June 7, 1871, under the terms of the Cherokee-Shawnee agreement of June 7, 1869, by which they became entitled to all of the rights and privileges of Cherokee citizens. They brought with them their children, George L. Flint, Sarah E. Flint(Browning), Rebecca L. Flint(Laughlin), and Lydia K. Flint(Spencer), all of whose names appear on the Shawnee-Cherokee Register Roll of 1871. Gertrude F. Flint is a daughter, born since 1871, in the Territory.

The Flints settled on a farm in the Cherokee Nation and remained for a little over three years, or until the fall of 1874. Mr. Flint paid $600.00 for a house, fenced ten or twelve acres of land, plowed it and continued to farm for three years or more. He had a cow and calf, some plows and a harrow, a team of horses and a team of mules. Thus equipped on his farm, which, as witness Weaver says, was a pretty good farm for those days, there is every reason to suppose the family considered itself firmly established.

But hard times were ahead. The horses and mules died. Flint had nothing with which to buy more. Without such stock, farming was out of the question. The condition not amounted to a calamity. Three years had reduced them almost to poverty.

Flint then secured the position of government blacksmith at the Quapaw Agency and removed there in the fall of 1874, taking all his family, including Mrs. Spencer, remaing there until about 1882 He left in the Nation all his property including his house, fences, farming implements and cattle.

In 1886, when this applicant was sixteen years of age, she was sent to the Carlisle, Pennsylvania, Indian School, where she remained for five years, completing her course in 1892, when she returned to Seneca. In the early fall of 1892, or just a few months after her return to Seneca, she was married, and continued to live with her husband until his death, which occurred on the 8th day of July, 1900. She has been in the government employ at the Wyandotte Indian School since 1899 and is now so employed.

In 1896 this applicant and each of her children received their share of the strip money which they used in purchasing a farm in the Cherokee Nation, which farm contains about two hundred acres and which she still holds. She has owned a town lot in Fairland since 1893.

Argument.

In connection with this brief we ask a careful reading of the brief filed by us in the case of Levi C. Flint, et al.

Mrs. Spencer is properly on the roll of 1871. She was a minor when her father took her to the Quapaw Agency and was a minor when she was sent away to school, where she remained until just a short time before her marriage. Before the death of her husband she secured employment in the government service and is now so employed. There has been, then, but a few days of her life when she has not been under legal disabilities and during these few days she has owned valuable property in the Cherokee Nation.

We take it that the only objection to these applicants is now the one heretofore raised, namely, paragraph nine, section

twenty-one, Act of June 28, 1898:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

"The purpose of this provision," said the Assistant Attorney-General on March 16, 1903, in the Yeargains cases and the Secretary of the Interior on the same day, "is clearly seen when read in the light of the history of the Cherokee Nation. x x x It was therefore against those who had never identified themselves with the Nation and those who had withdrawn themselves from the Indian people that this provision of the statute was aimed. It was for the protection of the Cherokee people and in harmony with the provisions of the Cherokee Constitution. That instrument defines how Cherokee nationality shall be lost or forfeited, viz:

That whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease. . . ."

Certainly Mrs. Spencer "identified herself with the Nation." She came under the treaty and lived in the Nation for more than three years and until driven out by poverty. "The statute" was not "aimed" at Mrs. Spencer on that account. There is left only "those who had withdrawn themselves from the Indian people" and the Yeargains decision explains who they are in showing how "Cherokee nationality shall be lost or forfeited," thus:

"There are three elements clearly defined which must concur to effect forfeiture of nationality, or complete expatriation -- viz: removal of the person, coupled with removal of all effects and property, and acquisition of another nationality by assuming the obligations of citizenship there. To these tests and for their construction there is also another, implied but not mentioned -- viz: the intent with which such acts be done, for if all property and the person were for some temporary purpose removed from the Nation, and if acts were done which might bear the construction of assuming obligations of citizenship in another community -- as voting there for instance -- yet if the removal of

person and property were for some temporary purpose and with intent to return, and the acts implying an assumption of duties of citizenship elsewhere had no such purpose, then the change of citizenship would not follow:"

Under this decision then, <u>four things must concur,</u> else the Spencers must be enrolled, viz:

1. Removal from the Nation.

2. Removal of effects.

3. Become a citizen of another government.

4. Do all of the above with the intent to abandon their Cherokee citizenship.

"Applying such test to the facts in the present case, it is clear that the Spencers have not lost their Cherokee nationality." They have done the first of the four, but neither the second, third nor fourth. We take them in order.

2. <u>Effects.</u> Levi C. Flint left in the Cherokee Nation a house which had cost him [illegible]; he left his agricultural implements and if they were few they were all he had; he left his fences; and he left a cow and a yearling; Cherokee counsel tried to be facetious about the cow and calf, but the record criticises the effort in showing thirteen head of cattle and ten years or maybe more during which Flint kept them in the Nation after his removal. Certainly, Flint did not remove his effects and must be enrolled. His daughter, Mrs. Spencer, while a minor, while in attendance at the Indian School was, like Marjorie Yeargain, entitled to enrollment.

3. <u>Another government</u>. Did Mrs. Spencer become a citizen of another government? The only one she is charged with joining is Missouri. She must first have become a citizen of the United States, or at least have declared her intention so to do, either or which was legally impossible until 1887.

Elk vs. Wilkins, 112 U. S., 94.

This case having decided that an Indian, of a tribe

still having a tribal organization, may not become a citizen of the United States except under act of Congress, we invite attention to the Acts on the subject.

The Act of February 8, 1887, (24 Stat., 390) granted citizenship to Indians who take up their residence separate and apart from any tribe of Indians, "without in any manner impairing or otherwise affecting the right of any Indian to tribal or other property." This was amended March 3, 1901, (31 Stat., 1447) so as to include "all Indians in Indian Territory," but tribal rights are not affected by this amendment.

The Act of August 9, 1888, (25 Stat., 392) granting citizenship to Indian women who marry United States citizens expressly declares also that nothing in that Act "shall in any way affect the right or title of such married women to any tribal property or any interest therein."

How then could Mrs. Spencer become a citizen of the United States so as to forfeit her rights to tribal property? Clearly not under the Acts of Congress; and the Supreme Court has said she can in no other way. Is there conflict between the Acts of Congress and the Cherokee Constitution? Then, the Acts of Congress prevail.

> U. S. vs. Rogers, 4 How., 567, 573;
> Choctaw Nation vs. U. S., 119 U. S., 27;
> Stephens vs. Cherokee Nation, 174 U. S., 487.

Under the Cherokee Constitution a citizen must become a citizen of another government to lose his tribal rights. The Acts of Congress say that a Cherokee becoming a citizen of the United States will not lose his tribal rights of property. The Act of Congress prevailing, the Cherokee provision must be limited to other Indian governments.

Since Mrs. Spencer has not become a citizen of another government so as to lose her tribal rights she and her children must be enrolled.

4. Intent. Mrs. Spencer has never had the chance to

legally express her will in acts. She was taken by her father out of the Cherokee Nation when a child. She lived with him until she was sent to the Indian School. Immediately after graduation she was married, and had no legal choice of a home until the day of her husband's death. Since that it she has been employed in the government service. The only acts indicating her intent either way are in her favor, that is, the first chance she had to indicate her preference she purchased a farm in the Cherokee Nation with her sole and separate estate. It will be noticed that her husband lived and fixed the home until after June 28, 1898.

5. Descendants. The children of Mrs. Spencer are all descendant of Levi C. and Stella A. Flint, their grandchildren. They were all minors when application was made. The Commission has investigated the roll of 1871 and has found the Flints there properly. They must be enrolled because they have done no act to forfeit their rights. They are therefore to be enrolled "with their descendants born since such roll was made." All of Mrs. Spencer's children are descendants born since 1871. The fact is plain and grandchildren are descendants. See the cases collected in 9 Am. & Eng. Ency. Law, 2d Ed., pp. 399 and 400, as to the meaning of "descendants."

Paragraph nine, section twenty-one, Curtis Act, is ambiguous and needs construction. A few of the ordinary rules are: we are to look at the whole context and give effect to all provisions, consider the objects intended to be subserved by the legislation and while the ordinary and popular meaning of words should be given where such an interpretation is possible, yet the operation of the statute should be restrained within narrower limits where its literal meaning would extend to cases which the legislation never intended to include in it. Market Co. vs. Hoffman 101 U. S., 116. A construction is to be given rendering the act reasonable rather than unreasonable and just rather than unjust. Merriam vs. U. S., 107 U. S., 437; Noonan vs. Bradley, 9 Wall.,

394. Where one meaning will disinherit these children and another possible one will not so result, we must take the latter. Underhill on Wills, Sec. 332, Vol. 1, p. 445. "All laws are to be so construed as to avoid an unjust or absurd conclusion; and general terms are to be so limited in their application as not to lead to injustice, oppression or an absurd consequence. Lau Ow Bew vs. U. S., 144 U. S., 47, 61.

Applying these rules, we find that the Dawes Commission is authorized in making rolls of citizenship of the tribes to take the roll of 1880 "and all descendants born since the date of said roll of persons whose names are found thereon." The word persons applies to those whose names appear on the roll. Descendants refers to children who are enrolled by virtue of their ancestors' names appearing on the roll. The Commission is to "investigate the rights of all other persons whose names are found on any other rolls," and to enroll such "of their descendants born since such rolls were made.

The same distinction between "persons" and "descendants" will be noticed by a perusal of paragraphs three, five, six and eleven of section twenty-one -- both before and after paragraph nine. This distinction is made where reference is had to the final roll of the Cherokee Nation where we have "the persons whose names are found thereon, with their descendants thereafter born to them."

The proof required by the Commission is always from the ancestor. When he has established his identity as a person, his descendants are enrolled as a matter of course.

The reasons heretofore assigned for rejecting such minors as these are two: first, they were not born in the Cherokee Nation, and second, they have not removed to and in good faith settled in the Cherokee Nation. We dismiss the first with the showing that Marjorie Yeargain was enrolled although the record does not show that she was ever in the Nation. The second reason

followed to its logical results are:

A baby must first select its place of birth and if it errs in that, it must

Leave its mother's arms and forthwith remove to and in good faith settle in the Cherokee Nation, else its birth-right is forfeited. These children should, at birth, have jumped from their mother's bosom, removed to the Cherokee Nation and become settlers there, taking their part in taming the wilderness, building, plowing the sod, reaping and sowing as settlers do.

Any such construction of the Act of Congress presupposes a marvelous Congressional conception of the Indian and a belief in a breed of most remarkable Indian babies.

Conclusion.

We, therefore, respectfully submit:

1. That as Mrs. Spencer was properly enrolled in 1871 she is now entitled to enrollment because she has done no act which, under the law, works a forfeiture of her rights.

2. That her children, being minors at the time of their application, are entitled to enrollment as of course, as her descendants, and independently of her right they are entitled as the descendants of Levi C. and Stella A. Flint, their grandparents

Respectfully submitted,

Nancy G Kimball

Thos Henry White

Attorneys for Applicants.

Cherokee D 311

H.H.L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Lydia K. Spencer for the enrollment of herself and three minor children, Majel N., Dustin C., and Yvette Spencer, as citizens of the Cherokee Nation.

D E C I S I O N.

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The record in this case shows that on September 17, 1900, the applicant, Lydia K. Spencer, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her three minor children, Majel N., Dustin C., and Yvette Spencer as citizens of the Cherokee Nation. Thereafter, on February 24, 1902, at Muskogee, Indian Territory further evidence in the matter of this application was heard and the case was submitted to the Commission for final consideration and ordered closed.

The evidence in this case shows that the applicant, Lydia K. Spencer, 29 years of age, lived in the State of Missouri at the time of her application, and has lived there for twenty years. She was married in 1892 to John N. Spencer, a citizen of Missouri.

The applicant, Lydia K. Spencer, is not identified on the Cherokee authenticated tribal roll of 1880. Her name appears upon the Cherokee-Shawnee Register roll as " L. K. Flint," her maiden name, and also on the Wallace Roll of Shawnee-Cherokees, as "Lydia K. Flint," and on the Dickson Roll of Shawnee-Cherokees as "Lydia Spencer." She is also identified on the Cherokee-Shawnee Pay roll of 1896, and on the Cherokee census roll of 1896.

The applicant's daughter, Majel N. Spencer, is identified on the Dickson Roll and also on the Cherokee Census roll of 1896, Her

name appears on the last mentioned roll as "Elizabeth M. Spencer." She is also on the Cherokee-Shawnee Pay roll of 1896. The son of the applicant, Dustin C. Spencer, is identified on the Cherokee Census roll of 1896. His name there appears as "Calvin D. Spencer." Proper proof of the birth of the applicant's youngest child, Yvette Spencer, on the 23rd day of September 1897, has been furnished this Commission. None of those included in the application had removed to and in good faith settled in the Cherokee Nation prior to the enactment of the Act of Congress of June 28, 1898, all of the children of the applicant, Lydia K. Spencer, having been born in the State of Missouri and having always lived there with their mother.

Paragraph 9, of Section 21 of the Act of Congress of June 28, 1898 (30 Stats., 495) provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship: . . . ."

It is therefore the opinion of this Commission that Lydia K. Spencer, Majel E. Spencer, Dustin C. Spencer, and Yvette Spencer are not lawfully entitled to be enrolled as members of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be refused and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Acting Chairman.

Commissioner.

C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this MAY 27 1902

CHEROKEE, D.—311.

Lydia K. Spencer, nee Flint, et al, Age 29.) Applicant, Cherokee-Shawnee.

Lydia K. Spencer, daughter of Levi C. Flint, and Stella A. Flint, is a Cherokee-Shawnee by blood and birth, who came to the Cherokee Nation prior to June 10, 1871.

She is on the Cherokee-Shawnee Register Roll, of June 10, 1871,

331, Flint L. Z.

On the Cherokee-Shawnee Roll made by J. W. Wallace,

255, Flint, Lydia K.

On the Cherokee-Shawnee Roll, made by J. G. Dickson:

657, Spencer, Lydia, Age 25:

And her daughter,

658, Spencer, Mabel E, age 2 yrs.

On the Cherokee Census Roll of 1896:

336, Lydia K. Spencer;

612, Spencer, Elizabeth;

337, Calvin D. Spencer.

On the Cherokee-Shawnee Roll made under an act of the Cherokee National Council, approved March 30, 1896, called Lipe Roll,

639, Spencer Lydia K.

Has a farm in the Cherokee Nation, and has never joined any other government, nor has she received any allotments or payments in any other tribe.

Lived in the Cherokee Nation with her parents, and married in November 1892, and moved to Missouri, where she now resides. Asks enrollment for,

Lydia K. Spencer, nee Flint,
Mazel E. Spencer, Daughter,
Dustin C. Spencer, Son,
_____ Spencer, Dau,

These children were born in the State of Missouri, 8 miles from Cherokee Nation.

than the residence of a Creek Indian in the Cherokee Nation makes him a citizen of the Cherokee Nation and entitled him to participate in the final allotment of lands and distribution of the common property of this Nation.

These applicants have never joined "any other government," nor have they ever received any payments or allotments of land among any Tribe or Nation.

"He must not only remove his effects, but he must become a citizen of another government."

ASSISTANT ATTORNEY GENERAL LITTLE, 8th ANNUAL REPORT.

Are we to judge by the practice in the Cherokee Nation? Then the evidence of D. W. Bushyhead, ex-Principal Chief of the Cherokee Nation, before the Clifton Commission, Freedmen Enrollment, 1896, shows that he went to California in 1849, leaving effects in the Cherokee Nation, a slave, horse and saddle. Voted and held office in California, and returned after 19 years absence, and found slave freed, horse dead and saddle lost. He was appointed and served two terms as treasurer of the Cherokee Nation, and was elected and served two terms as Principal Chief and Never was re-admitted.

These applicants were under restraint and could not act of their own free will. That clause of the Cherokee Constitution never intended to destroy the marriage relation by compelling the wife to separate and live apart from her husband and children and to deny herself of his support under the penalty of the forfeiture of her Tribal citizenship, and property purchased by her pro rata share of Shawnee funds paid to the Cherokee Nation.

The removal of a minor ex gue by guardian or parents does not de-citizenize the minor until he becomes of age and makes his choice. Indian children born in Arkansas or Missouri do not

become citizens of these states by reason of their Indian allegiance, but their parents must be citizens of the United States to be bona fide citizens of either of these states. The act of temporary residence of their parents did not constitute them bona fide citizens of Missouri, for their parents were not citizens of the United States and could not be made a citizen thereof unless by some special act of Congress or a treaty stipulation. The authorities on this question are undisputed.

Even after their parents became citizens of the United States by reason of the Act of Congress, as amended March 3, 1901, all their Tribal property and rights were preserved for them. Indian children born in the Cherokee Nation do not become Cherokee citizens.

By the laws of the white man the sins and omissions of the parents are visited upon the heirs of their children. Strange to say, but by Indian law, more particularly the Cherokee laws, arex always in favor of the children. They abound with "Provided that nothing in this act shall bar minors and orphans." "The descendants of the Cherokee men by all free women, whose parents may have been living together as man and wife." page 14, Cherokee laws, and Sec. 692, page 246.

Unlawful marriages are absolutely void, but "Provided that the issue from such marriage shall nevertheless <u>be legitimate</u>; provided also, that when a man, having by a woman one or more children, shall afterwards inter-marry with such woman, such child or children, if recognized by him, or <u>proven</u> to be his shall thereby be legitimate." Page 267, in regard to wills, "saving to minors and persons 'non-compus mentis' one year to contest such will, after the removal of their disabilities."

The Indian loves and protects his children and their rights, and no better example can be shown than by the reading of "Exhibit G", being authenticated copy of the decision bythe Tahlequah Circuit Court, Cherokee Nation, in case of JOHNSON vs HARRIS, Principal Chief.

These applicants, in view of their rights, and not for the purpose of denying rights to others, call your attention to the fact aht almost all of the Cherokees born prior to the Civil war did remove with their effects out of this Nation and that large numbers of the births during 1861 to and including 1866 took place in the neighboring states, Territories or Tribes out of the jurisdiction and "limits" of the Cherokee Nation, and that the records of the National Council fail to show their re-admission, and their sole claim now rests upon the authority of Congress in making the "authenticated roll," as evidence of their Cherokee citizenship, but these applicants do not ask or pray that you strike them off the final roll by reason of their non-residence or misfurtune of birth, or the disregard of the National Council in not re-admitting them to citizenship, but pray that the reasons and facts given will aid them in their petition for enrollment.

Are not these quotations of the Cherokee Constitution and law seemingly out of place in face of the this section of the Curtis Act?:

"Sec. 28. That on and after the passage of this act, the laws of the various tribes or nations of Indians shall not be enforced at law or in equity by the Courts of the United States in the Indian Territory."

The Commission acting in the capacity of a Court for the enrollment, and as judges of the rights of the applicants,

cannot enforce the Cherokee Constitution and laws against the rights of the applicants whose claims rest on Art. 15, Treaty July 19, 1866.

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship." ——Curtis Act.

This applies to State, Territorial, and Tribal boundaries, and makes absolute, without previous notice the confiscation of the property and rights of all Indians who were absent prior to June 28, 1898.

"No person shall be deprived of life, liberty ~~and~~ or property without due process of law."——Fifth Amendment to Constitution.

"This Article is a restraint upon the legislative as well as the executive and judicial branches of the government, and cannot be so construed as to leave congress free to ~~mak~~ make any process "due process of law."

"These words generally imply and include regular allegations, opportunity to answer, and trial according to some settled course of judicial proceedings."

MOWRY vs HOBOKEN L. & I. CO., 18, HOWARD, 298.

The ~~s~~ striking off of the names of these applicants from the rolls forever prevents them from participation in the final allotment of lands and other common property of the Cherokee Nation, and confiscates their present holdings without compensation ~~nf~~ ~~k~~ or "due process of law."

These Indian applicants became citizens of the United States by virtue of the acts of Congress.

24 Stats. at L. 390, Amended March 3, 1901.

28,

"Every Indian in the Indian Territory is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, or otherwise a member of any Tribe of Indians within the Territorial limits of the United States, without in any manner impairing or otherwise affecting the rights of any such Indian to ~~X~~ Tribal or other property."

By the law quoted, Congress (by implication) repealed that portion of the Curtis Act; "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation to which he claims citizenship." These applicants were granted "all the rights, privileges, and immunities" of citizenship of the United States.

There is no law compelling citizens of the United States to remove to and settle in good faith in the State, Territory or Nation in which he claims citizenship.

All citizens of the United States were privileged on June 28, 1898, and at all times before and since, to move to and reside in any State or Territory, without any forfeiture of any of their rights or property.

If that part of the Curtis law is now in force, then these applicants, citizens of the United States, are denied some of the "rights, privileges and immunities" that they should enjoy and are entitled to.

The Tribal rights of these applicants are protected by said amended act "without in any manner impairing or otherwise affecting the rights of any such Indian to Tribal or other property."

This amended act repealed the destructive and unconstitutional clause of the Curtis Act quoted, or otherwise these applicants are denied their rights to tribal or other property" without "due process of law" contrary to the Act making them citizens.

Atty for Lydia K Spencer Estate

(Copy)

EXHIBIT C.

At the regular term of the Circuit Court of Tahlequah District, C. N., Sept. 8th, 1898, in the case of J. E. Johnson et al, vs C. J. Harris, Principal Chief, etc.

The parties having submitted a statement of the facts in the case to which both agree, for a decision by the Court. Upon examination of the ~~facts~~ statement of facts the Court finds that it is alleged and admitted that plaintiffs are of Cherokee blood, and at one time owned an improvement and lived on it in Coweesoo-wee District, this Nation, and were citizens thereof; and in 1884 removed out of the limits of this Nation into the Osage Nation; and it is further admitted that the wife and children are part Osage by blood, and as such that they participated in the per capita payment of money made among the Osage people; and that J. E. Johnson himself drew money at the "Strip" payment among the Cherokee people. It is evident to the Court that the wife, being of Osage blood, has a preference in being a citizen of the ~~Cherokee~~ Osage Nation to that of being a citizen of the Cherokee Nation, and in the exercise of that right of choice she has identified herself with the Osage people, and became a recognized citizen thereof, thereby has forfeited all rights of citizenship in this Nation. As the Court holds that the wife in this case being of Cherokee and Osage blood both, cannot hold and exercise the right of citizenship in the Cherokee ~~Nation~~ and Osage Nations both at the same time.

She must identify herself with one or the other. As to the rights of such children as J.E. and Julia E. Johnson might have had born to them prior to their removal to the Osage Nation, being natural born

citizens of this Nation by virtue of their Cherokee blood, remain unimpaired, they being minors and their rights of citizenship in this Nation being vested by the constitution and laws of this Nation, the mere fact of their mother haven taken them with her when she went to the Osage Nation does not and cannot divest them of their rights in the Cherokee Nation. There is no power or authority that can divest a minor citizen of this Nation of blood of his rights of citizenship. It is therefore the opinion of the Court that such children of J. B. Johnson and wife as they might have taken with them when they removed to the Osage Nation and are now minors, have not forfeited their rights in this Nation; that forfeiture of citizenship in this case must be done by a person who is capable of electing as to which of these two Nations they prefer to live in. It must be done voluntarily; and when the children in question reach their majority they will then be competent to elect as to which of these two Nations they prefer to live in; then if they elect to live in the Osage Nation they will forfeit their rights here and as to the rights of such children as J. B. and Julia M. Johnson might have had born to them since the mother has been recognized as a citizen of the Osage Nation the Court holds are wholly identical with those of the mother. They being of Osage blood and born in the Osage Nation are natural born citizens thereof by virtue of their Osage blood and have no rights in the Cherokee Nation whatever; and judgment is hereby ordered accordingly.

H. L. LANDRUM,

Judge Presiding.

R O L L S.

Under the same Act of Congress John W. Wallace made the Rolls of the Shawnees, Delawares, and Freedmen, and the Court of Claims recognized the validity of these rolls.

30 Ct. of Cl., 190.

The Cherokee National Council passed and Act entitled "An Act to Equalize the Per Capita Shares of the Shawnee Citizens of the Cherokee Nation with the Shares paid the Cherokees by Blood," approved March 30, 1896. The Cherokee Nation by the Principal Chief appointed William Carey, the Shawnee Business Committee appointed Jacob Guthrie, and the Secretary of the Interior appointed James G. Dickson, and this Commission examined each Shawnee applicant and made the roll, throwing off 40 persons, and the roll so made is known as the Lipe Roll.

The Roll of Cherokee-Shawnees, known as the Dickson Roll was made under the decree of the Court of claims in the case of Johnson Blackfeather, Principal Chief of the Shawnee Indians, vs The Cherokee Nation, and the United States.

The Register Roll of June 10, 1871, was made pursuant to the agreement of June 9th, 1869.

The applicants are on these rolls and have been recognized by the Cherokee authorities as Cherokee-Shawnees, entitled to participate in the pro rata payments of money due the Cherokee Nation, and these acknowledgments have a binding force and by these rolls they were acknowledged as Cherokees regardless of residence and place of birth, and the Cherokee Nation is estopped from disputing their claims, except in the case of fraud.

AN ACT TO EQUALIZE THE PER CAPITA SHARES OF THE SHAWNEE CITIZENS OF THE CHEROKEE NATION WITH THE SHARES PAID THE CHEROKEES BY BLOOD.

———oo0oo———

BE IT ENACTED BY THE NATIONAL COUNCIL, That there be (and) is hereby appropriated out of the first instalment of the money derived from the sale of the Cherokee Outlet set aside by the act of Congress approved March 3, 1893, to pay the claims of the Shawnees, Delawares and Freedmen, citizens of the Cherokee Nation, the sum of $76,536.00 to be paid the Shawnee citizens of the Cherokee Nation whose names shall appear upon the roll made by the Secretary of the Interior under the terms of the decree entered in the case of Johnson Blackfeather, the Principal Chief of the Shawnee Tribe of Indians vs The Cherokee Nation, et al, in the Court of Claims of the United States. Provided that the said Shawnee citizens of the Cherokee Nation shall, before this provision becomes effective, through their authorized agent or agents, first enter into a written agreement with the Principal Chief of the Cherokee Nation, requesting the Secretary of the Interior to prepare said roll of Shawnee citizens by a Commission of three, one appointed by the Principal Chief of the Cherokee Nation, one by the Secretary of the Interior, and one by the Business Committee. The said Roll to contain the names only of the Shawnee Tribe of Indians and their descendants as became citizens of the Cherokee Nation by operation of the agreement between the Cherokee Nation and the Shawnee Indians dated the 9th day of June, 1869, and who were living on May 5th, 1894, or by the operation of special Acts of the National Council duly complied with by the parties admitted and were living at said date. Provided, however, that the said roll herein auther-

ised shall show the said Shawnees who were citizens of the Cherokee Nation on April 20th, 1890, November 26,1890, and May 5th, 1894.

2. The said money so appropriated shall be paid said Shawnee Indians by the Treasurer of the Cherokee Nation as soon as said money (fund) shall be available; and said Treasurer shall pay no Shawnee Indian more than an amount of said fund sufficient in addition to what shall be to each Shawnee Indian citizen of the judgment in the case last before mentioned to make the sum paid each Shawnee citizen $295.25. Provided, that no Shawnee admitted or Shawnee child born subsequent to the date as shown in the aforesaid roll shall be entitled to receive the amount or amounts of said payment or payments authorized on said dates by an Act of the National Council, it being the intention to pay the said Shawnees no more than if they were Cherokees by blood. Provided, further, that if the said full amount hereinbefore appropriated in section first is not required, the balance remaining is covered back and retained in the Treasury of the Cherokee Nation.

3. From the sum so above quoted there shall be deducted by said Treasurer the amount the said Shawnee Indians have agreed to pay their authorized attorney in this matter, which shall be paid said attorney out of said fund of the Treasurer as soon as the same is available; also, the sum of $10 0.00 1 or so much thereof as shall be necessary for the payment of the services of the Census Commission as hereinbefore provided for, half of said amount to be paid by the Cherokee Nation and half by said Shawnee Indians. Provided, that the expenses incurred in making said payment shall be borne by the said Shawnee Indians out of said amount to be paid them, as provided in this Act.

4. That all acts inconsistent with this Act are hereby repealed.

Approved March 30th, 1896.

.....

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah, 9th, 1896.

(S E A L)

It is hereby Certified that the foregoing is a Correct Copy of the Original.

Witness, Seal of the N Cherokee Nation.

(Signed) JOHN L. ADAIR,
Executive Secretary.

Cherokee D-311

Lydia K. Spencer et al

A. S. Clover
atty

Cherokee D #311
(R 674) JCR

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

In the matter of the application of Lydia K. Spencer for the enrollment of herself and minor children, Majel E., Dustin C. and Yvette Spencer, as citizens of the Cherokee Nation of Shawnee blood:

D E C I S I O N

The record in this case shows that on September 17, 1900, the applicant, Lydia K. Spencer, appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and minor children, Majel E., Dustin C. and Yvette Spencer, as citizens of the Cherokee Nation of Shawnee blood. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 24, 1902. On May 27, 1902, the Commission rendered a decision in the matter of said application and forwarded the same to the Department of the Interior for approval, and the Department approved said decision on September 13, 1902, and, under date of April 14, 1903, returned the record in said case to the Commission for readjudication; and further proceedings in the matter of said application were had at Tahlequah, Indian Territory, on May 25, 1903.

The evidence shows that the applicant, Lydia K. Spencer, is a Shawnee by blood and duly identified under the name of "L. K. Flint", on the register of names of members of the Shawnee tribe of Indians who removed to and located in the Cherokee Nation prior to the 10th day of June, 1871, in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation of Indians on the 7th day of June, 1869, and approved by the President of the United States on the 9th day of June, 1869; on the Wallace roll of Cherokee-Shawnees as "Lydia K. Flint"; on the Dickson roll of Cherokee-Shawnees as "Lydia Spencer"; and, under the name of "Lydia Spencer", on the Cherokee-Shawnee pay roll of 1896 and, as an adopted Shawnee, on the 1896 census roll of the Cherokee Nation.

The evidence further shows that all of the other applicants herein are the minor children of the said Lydia K. Spencer.

The applicant, Majel E. Spencer, is identified on the Dickson roll of Cherokee-Shawnees, the Cherokee-Shawnee pay roll of 1896 and, as an adopted Shawnee, on the 1896 census roll of the Cherokee Nation; the applicant, Dustin C. Spencer, is identified on the 1896 census roll of the Cherokee Nation as an adopted Shawnee; and the applicant, Yvette Spencer, is duly identified by birth affidavits filed with and made a part of the record herein.

The evidence further shows that the applicant, Lydia K. Spencer, resided in the Cherokee Nation for several years after her removal thereto with the Shawnees in 1871, when she removed to the state of Missouri and has since continuously resided therein; but it appears from said evidence that she has owned personal property in the Cherokee Nation during her residence in said state of Missouri and has always claimed said nation as her home. The residence of the minor applicants herein is considered to be the same as that of their mother.

Cherokee D #311

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Joseph D. Yeargain et al., Cherokee D #957 (I.T.D. 2900-1903), that the said Lydia K. Spencer, Majel E. Spencer, Dustin C. Spencer and Yvette Spencer should be enrolled as citizens of the Cherokee Nation of Shawnee blood, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,

this OCT 9 1907

Cherokee D # 311.

Department of the Interior,

Commission to the Five Civilized Tribes.

Tahlequah I. T. October 15th 1903.

In the Matter of the application for the enrollment of Lydia K. Spencer as citizens of the Cherokee Nation.

Comes now the Cherokee Nation and protests against the decision of the Commission rendered in the above entitled case and requests that the record be transmitted to the Honorable Secretary of the Interior for review.

Protest and Argument.

The testimony in this case shows that the applicant is a daughter of Levi C. Flint; that they came to the Cherokee nationand that their names appear upon the Shawnee register of 1871 but the testimony does not show as stated in the judgment that the applicant "Resided in the Cherokee Nation for several years after removal thereto with the Shawnees in 1871" but upon the other hand the testimony shows that herfather left the Cherokee nation in 1874 or 1875 and has been a continuous non resident since that time. Neither does the testimony show as the judgment states that she has owned personal property in the Cherokee Nation during her residence in the state of Missouri. There is no warrant whatever in the testimony for these findings in the judgment; upon the other hand the testimony is quite clear that the small claim which the said Levi C. Flint the father of the applicant had upon the public domain in the Cherokee nation was abandoned and for years no member of the family had any improvements upon the public domain in the Cherokee Nation or was the owner of any personal property within the limits of the Cherokee Nation but all of them with all of their families lived in the State of Missouri where they were residents; where they exercised the right of citizenship.

Upon a rehearing of his case before the Commission Levi C. Flint, who testified in his own behalf and whose testimony was made a part of the recordin this case stated that he had no property within the limits of the Cherokee nation during a long number of years; that for more than twenty years he and the applicant were continuous residents of the state of Missouri where he had voted at all times during both congressional and presidential elections and he further stated that he had not been permitted to vote in the Cherokee Nation because the Cherokee authorities told him that he was not a citizen and not entitled to vote.

We do not see any comparison whatever between these cases and the Yeargain cases as stated by the Commission. In the Yeargain cases these boys were upon every roll made by the Cherokees; were born within the limits of the Cherokee Nation; were Cherokeesby blood; they owned farms and personal property within the limits of the Cherokee Nation after reaching their majority; they voted at every Cherokee election; held various offices in the Cherokee nation; had always been recognized as citizens of the Cherokee nation and were when they made applications for enrollment as citizens of the Cherokee nation residing within a stones throw across from the Cherokee line at a town where all Cherokees for miles around went to do their trading; they were in a general mercantile business at South West City Mo and at Grove I. T.. Upon the other hand in the case at bar the applicant and her father have been disconnected from the Cherokee nation or tribe for about thirty years. Neither applicants husband or her father have voted in the Cherokee nation during that period and have never in any way been identified with Cherokee affairs They ownedne farm upon the public domain of the Cherokee Nation except one that was abandoned and owned no personal property in the Cherokee Nation., and we do not believe they are entitled to be enrolled.

Respectfully,

W W Hastings JC

Atty Cherokee nation.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES. Cher. D-311.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1903.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes in the matter of the application for the enrollment of Lydia K. Spencer, Majel E. Spencer, Dustin C. Spencer, and Yvette Spencer, as citizens of the Cherokee Nation of Shawnee blood.

This decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Very respectfully,

Acting Chairman.

Encl. C-11.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 311.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, October 6, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date May 27, 1902, rejecting the application of Lydia K. Spencer for the enrollment of herself and her three minor children, Majel E., Dustin C. and Yvette Spencer, as citizens of the Cherokee Nation by Shawnee blood, was affirmed by the Secretary of the Interior on September 13, 1902.

Respectfully,

Acting Chairman.

MDG

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-311.
(R 676).

Muskogee, Indian Territory, October 10, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated October 9, 1903, granting the application of Lydia K. Spencer for the enrollment of herself and her minor children, Majel E., Dustin C. and Yvette Spencer, as citizens of the Cherokee Nation of Shawnee blood.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-77

D 311

IN THE MATTER OF THE APPLICATION OF

Lydia E. Spencer et al

FOR ENROLLMENT AS

CHEROKEE CITIZEN.

A. Original testimony, September 17, 1900
B. Memo of application " 17, 1900
C. Birth affidavit - Urette Spencer.
D. Letter from Supt Indian Training School Seneca, Mo.
E. Notice of final consideration
Receipt for testimony

F. Supplemental testimony and order closing testimony, Feb. 24, 1902

Transferred to R-676

V

Cher D 312

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September, 17, 1900.

In the matter of the application of Rebecca L. Laughlin for the enrollment herself and children as Cherokee citizens; being sworn and examined by Commissioner Needles she testified as follows:

Q What is your name? A Rebecca L. Laughlin.
Q What is your age? A Thirty-six.
Q What is your post-office address? A Seneca Missouri.
Q Are you a recognized citizen of the Cherokee Nation by blood?
A Yes sir.
Q What degree of blood do you claim? A Three quarters.
Q What district do you reside in? A Delaware District.
Q How long have you lived in the Cherokee Nation? A We lived in the Cherokee Nation three years.
Q Where did you live before that? A In Kansas.
Q For whom do you apply for enrollment? A Myself and children.
Q What is your husband's name? A Charles W. Laughlin.
Q Is he a non-citizen? A Yes sir.
Q When were you married? A In 1882.
Q Have you a certificate of marriage? A Yes sir.
Q Please present it A I haven't it with me.
Q What was your name before you were married? A Rebecca L. Flint.
Q Your name appears upon the authenticated rolls of the Cherokee Nation? A Yes sir.
Q Roll of 1880? A No sir, I don't think it is on the 1880 roll
Q What are the names of your children? A Alice A. Laughlin, seventeen years old; Stella E. Laughlin, sixteen; Havilah E., he is fourteen; Ellen E., she is eleven; Pamela ~~Ex~~ A., she is nine; Levi D., he is five; Charles ., he is two.
1896 roll page 505 #263 Rebecca L. Laughlin Delaware District;
Q Is your husband living? A Yes sir.
1896 roll page 503 #240 Alice A. Laughlin Delaware;
1896 roll page 508 #251 Ellen E. Laughlin Delaware
1896 roll page 508 #250 Havilah Laughlin "
1896 roll page 508 #253 Levi D. Laughlin "
1896 rollpage 509 #252 ~~xx~~ Pamela E. Laughlin Delaware
~~1896 xxxx~~ Shawnee Pay Roll 1896, page 26 #503 Stella E. Laughlin.

Examined by Cherokee Attorney W.T. Hutchings:
Q Where were you married? A Seneca Missouri.
Q Was your husband a resident at that time of ~~xxxxxxxx~~ Seneca Missouri? A No sir.
Q Where did he reside? A He was living in the Peoria Nation Quapaw Agency
Q Did he ever reside in the Cherokee Nation? A No sir.
Q How long had it been since you had resided in the Cherokee Nation when you married him? A Eight years.
Q Where did you both reside, you and your husband, after your marriage? A In the Peoria Nation, Quapaw Agency.
Q Of what state or government was he a citizen? A ~~xx~~ Of Kansas but he was in the Government employ.
Q And he voted after he was married to you, in the State of Kansas
A No, he voted in the State of Missouri after ~~xxx~~ we was married.
Q He went there to reside in Missouri and lived there and voted there? A Yes sir, about there.
Q You have never resided in the Cherokee Nation since you were married? A No sir.
Q All of your children were born outside of the Cherokee Nation? A Yes sir.

Com'r Needles: The name of Rebecca L. Laughlin appears upon the census roll of 1896 as well as the names of her children, Alice

A., Ellen E., Havilah E., Levi D. and PAmelaA. She avers that she has one child, Stella E. six years old, whose name does not appear upon the census roll of 1896, but it does appear upon the Shawnee Pay Roll of 1896; she avers also that she has one child younger, Charles F., whose name does not appear upon the census roll of 1896; her maiden name was Rebecca L. Flint; final judgment as to the enrollment of Rebecca L. Laughlin and her said children will be suspended, and their names will be placed upon a doubtful card. It will also be necessary, in order to complete the enrollment that she file satisfactory proof of the birth of said child Charles F., the youngest child, whose name does not appear upon the census roll of 1896.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 19 day of September 1900.

Commissioner.

D. 512.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of Rebecca L. Laughlin for the enrollment of herself and children as citizens of the Cherokee Nation.

Applicant represented by H. E. Clover, Vinita, I. T.
Cherokee Nation represented by W. W. Hastings.

CHARLES B. LAUGHLIN, being duly sworn, testified as follows:

COMMISSION: What is your name? A Charles B. Laughlin.
Q What is your postoffice address? A Seneca, Missouri.
Q Are you the husband of Rebecca L. Laughlin, who is an applicant before this Commission for enrollment? A Yes, sir.
MR. CLOVER: What was the name of your wife before she married you? A Rebecca L. Flint.
Q Who is she the daughter of? A Levi and Stella Ann Flint.
Q What tribe of Indians or nation did they belong to? A Well, they belonged to what was known as the Cherokee-Shawnees; that is, they were Shawnees admitted or adopted by the Cherokees according to treaty.
Q When was you married to Rebecca L. Laughlin? A 15th day of March, 1882.
Q Where was you married? A In Seneca, Missouri.
Q Did you ever make application at any time for a license under the Cherokee laws? A Why, yes, sir, I did afterwards, not at that time though; I was in the government service at that time, and they wouldn't let me off long enough to make application at that time. I made application I think in 1896 if I am not mistaken.
Q You was married under the Cherokee laws at that time? A Yes, sir, at that time, yes, sir.
MR.HASTINGS: How old is your wife? A She will be 38 the 15th of next March.
COMMISSION: The name of R. L. Flint appears upon the register of the names of members of the Shawnee tribe of Indians who moved to and located in the Cherokee Nation prior to the 10th day of June, 1871, within two years from the 9th day of June, 1869, in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation of Indians; she appears thereon as No. 329.
MR.CLOVER: Has your wife any property in the Cherokee Nation?
A She has.
Q What does it consist of? A Farm and improvements.
Q Where is it located? A It is about five miles north of Afton.
Q Does she own it at the present time? A Yes, sir.
Q Well, has she ever become a member of any other government than the Cherokee Nation? A No, sir.
MR.HASTINGS: I submit again that this is a legal question.
MR.CLOVER: Was your wife and children enrolled upon what is known as the Wallace Roll? A They were except the younger ones that has been born since then.
Q Did your wife draw the payment under the roll? A She did.
Q Was your wife and children on the Dixon roll? A They were.
Q Did they draw a payment under that Dixon roll? A They did.
Q Is your wife on the Lipe roll? A She was.
Q And drew payment under it? A Yes, sir.

COMMISSION: The following names appear upon the pay roll of Cherokee-Shawnee citizens as disbursed by D. W. Lipe, treasurer of said nation, authorized by an act of the Cherokee National Council, approved March 30, 1896: Rebecca Laughlin, Alice A. Laughlin, Stella E. Laughlin, Havilla E. Laughlin, Ellen E. Laughlin, and Amelia A. Laughlin, Nos. 501, 502, 503, 504, 505, and 506, respectively.

MR. CLOVER: Has any children been born to your wife and yourself since your wife made application for enrollment before the Dawes Commission? A Yes, sir, there has been; there was twins, born on the 6th of March last year, 1901.

Q What is the names? A The boy is Harold Philippine and the girl Helen Cuba.

MR. HASTINGS: Q Where do you reside, Mr. Laughlin? A I live at Seneca, Missouri.

Q Where were you living when you married? A I was in the Quapaw Agency, in the United States service.

Q How long have you been there in Seneca, Missouri? A Since 1884.

Q When did you marry? A 1882.

Q Where were all these children born? A Two of them were born in the Territory.

Q What territory? A In the Indian Territory.

Q Well, the Quapaw Agency? A Yes, sir.

Q And the rest of them were born where? A They were born in Seneca, Missouri.

Q All of these born since that pay roll was made, they were born in Seneca? A Sir?

Q All that you have mentioned were born since the pay roll was made, was born in Seneca, Missouri? A Yes, sir.

Q When did your wife acquire that improvement north of Afton? A Well, I don't know as I can give exactly the year, it is something like '92, between those two years.

Q You were married in '82? A Yes, sir.

Q And went to Seneca in about '84? A Yes, sir.

COMMISSION: The attorney for the applicant will be granted fifteen days in which to furnish the Commission with certified copies of the Wallace roll and the Dixon roll of the Cherokee-Shawnees; also fifteen days in which to furnish the Commission duly executed affidavits as to the births of his two children mentioned in the testimony

COMMISSION: You submit this case to the Commission for final consideration?

MR. CLOVER: Yes, sir.

COMMISSION: The attorney for the applicant and the representatives of the Cherokee Nation submit this case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for decision based upon the evidence now on file, in addition to the certified copies of the Wallace roll and the Dixon roll.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in the foregoing case, and that the above is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 25th day of February, 1902.

Commissioner.

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 9, 1902.

In the matter of the application of Rebecca L. Laughlin et al for enrollment as citizens of the Cherokee Nation. C. D. 312.

Brief on behalf of the Cherokee Nation.

The applicant was a daughter of Levi C. Flint, enrolled on Cherokee Doubtful Card No. 315. She was married to her husband in the Quapaw agency in 1832, and in 1834 removed to Seneca, Missouri, where she has continuously resided since that time, where all of her children except the first was born, and she was born in the Quapaw agency, and where they continued to live up to the present time. Her name is not found upon the roll of 1880, she having removed from without the limits of the Cherokee Nation prior to the time that roll was made; she had no improvement upon the public domain or any effects in the Cherokee Nation until recently; and while her husband was for a short while in the government service yet there is no evidence that he had been since about 1883; or since his removal to and her present location in Seneca, Missouri. No application is made for her husband, inasmuch as his wife was not married to him in accordance with the laws of the Cherokee Nation; but they were married under the laws of the state of Missouri. It would seem that her enrollment by the Commission is forbidden by that section of the Curtis Bill which provides that no person shall be enrolled as a citizen of the Cherokee Nation who has not heretofore removed to and in good faith settled in the Nation in order to obtain citizenship. Certainly if the mother is not entitled to be enrolled the children never having any residence in the Cherokee Nation, would not be entitled. The residence of their father is their residence, and his

being Seneca, Missouri, they are non-residents of the Cherokee Nation and come within the provisions of that Section of the Curtis Bill herein above quoted.

Reference is made to the brief filed by the Cherokee Nation in the case of Levi C. Flint, Cherokee Doubtful No. 315.

Respectfully submitted,

Warren Gasling

Attorney for the Cherokee Nation.

Cherokee D. 312.

[illegible]

In re

applications for enrollment as Cherokee citizens of
~~Levi C. Flint, et ux.~~,
Rebecca L. Laughlin and children,
Preston G. Browning and children,
Lydia K. Spencer and children,
George L. Flint and
Gertrude F. Flint.

Copies of Briefs for

Attorney for Cherokee

Nation.

Wm. Henry White,

HARRY G. KIMBALL,
ATTORNEY AND COUNSELLOR AT LAW,
416 [redacted] FIFTH STREET, N.W.
WASHINGTON, D. C.

In Re
Application of Rebecca L.
Laughlin and children for
Enrollment as Cherokee
Citizens.

B R I E F F O R A P P L I C A N T S.

In re)
application of Rebecca L. Laughlin)
and children for enrollment as)
Cherokee citizens.)

STATEMENT OF FACTS.

In the case of the claim of Rebecca L. Laughlin for enrollment for herself and children as Cherokee citizens, the facts are as follows:

She is a daughter of Levi C. and Stella .. Flint whose application for enrollment is now before the Department.

In accordance with the Treaty of 1869 between the Shawnees and the Cherokees, Rebecca L. Laughlin, then Flint, was taken by her parents to the Cherokee Nation where they acquired a farm and lived for some years. The substantial sum of $1749.60 was paid into the Cherokee Nation for the admission of this claimant and her parents to citizenship. The name of this claimant appears on the Shawnee Registration Roll prepared in accordance with the said Treaty of 1869.

The parents of this claimant removed her in 1874 to the Kickapoo agency where her father had been appointed government blacksmith and where he remained for some years until 1880 as such blacksmith.

In 1880 she was taken by her parents to Seneca, Mo., where she has lived to the present time, barely eight miles from the limits of the Cherokee Nation.

In 1882 she married Charles B. Laughlin, a white man, and they have nine children, all of whom are under twenty-one years of age. She owns a farm in the Cherokee Nation.

Her name has been on every roll of the Cherokee Nation except that of 1880, both the rolls prior and those subsequent to that date. While her children have been enrolled on all rolls made subsequent to their births excepting said

roll of 1880.

She has never been enrolled in the Quapaw Agency, and never received any allotment or annuity there.

A R G U M E N T .

The question now at issue is, are Rebecca L. Laughlin and her children entitled to enrollment as members of the Cherokee Nation and to an allotment of the lands and funds of the Nation as members thereof?

There can be no doubt that had the matter of allotment been raised shortly after the adoption of the Shawnees into the Cherokee Nation, there could have been no question about the rights of these claimants in the premises. They were entitled to all the rights, benefits and privileges of Cherokee citizens and would have been entitled to the same per capita distribution and allotment as Cherokees by birth. Cherokee Nation vs. Blackfeather. 155 U. S. 218.

The question then arises, what, if anything, have these claimants done to lose their citizenship? The attorney for the Cherokee Nation relies upon Section 2 of Article I of the Cherokee Constitution and part of Section 21 of the Act of June 28, 1898, known as the Curtis Act as sustaining his contention that these claimants have lost their rights to citizenship and are not entitled as Cherokees.

The Section of the Curtis Act alluded to reads as follows: "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship." What is the bearing of this Section on the case at bar? Rebecca L. Laughlin has surely complied with the Act of Congress. She has removed to the Cherokee Nation and has shown her eminently good faith by paying her proportion of the substantial sum of $1849.00 into the Cherokee Nation for the right to settle. This require-

ment of Congress has been fully complied with, therefore, and if nothing else stands in the way it is the duty of the Department to enroll her name and those of her children, all of whom are under twenty-one years of age.

If Congress had intended a removal to the Nation within some specified time prior to the passage of the Act it would have so specified and the Department cannot read into this law any such radical requirement not therein found as would make the removal into the Cherokee Nation by the treaty of 1869 inefficient because of the elapse of time since said removal. The intent of Congress is clear. They intended to prevent claims being made by those who had no right by blood and those who have never shown any disposition to become members of the Cherokee Nation, who have never done anything to benefit the Nation and whose claims are advanced in a purely speculative way. These claimants on the contrary have purchased their right to distribution by paying a large and substantial sum for their rights and should not be deprived of the same upon any more technicality or legal quibble advanced on behalf of the Cherokee Nation, who, having received the money of these claimants, now attempts to prevent them from sharing in a proper distribution of the lands and funds of the Nation.

Section 2 of Article I of the Cherokee Constitution reads as follows: "Whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other government all his rights and privileges as a citizen of this Nation shall cease." The attorney for the Cherokee Nation contends that this section has operated to deprive these applicants of the rights which they here claim.

Section 26 of the Curtis Act says: "That on and after the passage of this Act the laws of the various tribes or

nations of Indians shall not be enforced at law or in equity by the Courts of the United States in the Indian Territory." It is true that the Dawes Commission is not a Court of the United States in the Indian Territory and that this is not a proceeding at law or in equity, but they are as much bound by this expressed intention of Congress in all matters arising for decision in Indian affairs, Congress hereby intending that all matters are to be decided by the laws of Congress only and not by the action of the Indian law makers. This seems to be a plain proposition and to wipe away the last remaining objection to the enrollment of these claimants.

See Cherokee Nation vs Journycake, 155 U.S. 196, 199

But suppose for the purpose of this argument that this Section of the Cherokee Constitution is to be given full force and authority, what are its provisions and what is its bearing on the case at bar? Threes things must concur: First, he must remove out of the Nation; Second, he must remove his effects; Third, he must become a citizen of some other government. These three requirements are in the conjunctive and the conditions therein provided are not fulfilled until all three have been fully carried out. There is no question but that Levi G. Flint and his wife, Stella A. Flint took their said daughter, Rebecca L. Laughlin, with them when they moved from the Cherokee Nation in 1874 ~~or 1875~~, when he was appointed to a government position at the Quapaw Agency, and that as far as their living within the actual limits of the lands set aside for the said Nation they have not resided there since said date. It would also seem from the testimony in this case that they took most of their chattels with them upon such removal. It is in evidence, however, that for many years now Rebecca L. Laughlin has owned a farm in the Cherokee Nation and that she has improved the same, spending her money to keep it in proper repair, and it is a question well worth considering whether this of itself

ought not to prevent her and her children from losing their right to enrollment as claimed at the present time.

The question of citizenship, however, is the most important one, and, as we contend, the controlling one in this case. The claimant must not only have removed out of the limits of the Nation and have taken his effects, but he must also have become a citizen of another government. Has this requirement been fulfilled in this case? Has Rebecca L. Laughlin become a citizen of another government so as to deprive her and her children of their rights as Cherokee citizens and their proper allotments of land and their distributive share of money.

The decision of the Supreme Court of the United States in the case of Elk vs. Wilkins, 112 U. S. 94, is that an Indian could not become a citizen of the United States. Since then Congress has provided that in certain cases they may become citizens of the United States, but the Act of February 8, 1887, and its amendment of March 3, 1901, granting such citizenship expressly declare that when an Indian becomes a citizen of the United States his rights to tribal or other property shall not become impaired or oth rwise affected. Dawes Act of August 9, 1888. (25 Stat, 392)

The only other government of which Rebecca L. Laughlin could have become a citizen was one of the other Indian tribes. The testimony is clear that the only other tribe with which she has lived at any time and in which she could have obtained citizenship was that of the Indians of the Quapaw Agency. The testimony is undisputed that she never applied for enrollment or annuity there and was never recognized by said Nation in any way as being a citizen thereof. If she had acquired any rights in the said Nation it was incumbent upon the attorney for the Cherokee Nation to prove such facts, and his failure so to do leaves this question fully determ-

ined. The fact that Levi C. Flint, father of Rebecca L. Laughlin removed to the Quapaw Agency as a government blacksmith surely did not affect his rights as a member of the Cherokee Nation or the rights of his minor child, Rebecca L. Laughlin. It is a fact perfectly well known to the Department that a government employe is entitled to retain his citizenship and all his political rights in the jurisdiction from which he comes when appointed to a government office and why should there be any distinction made between the office holder at his desk in the Department and the office holder serving as a government blacksmith. We respectfully contend that a blacksmith appointed to the Quapaw Indians in accordance with treaty, (Stat. At Large, Vol. 7, P/425 Art. III) from the Cherokee Nation, is still a Cherokee citizen and entitled to all his rights and privileges as such citizen unless he formally renounce his allegiance and his citizenship and apply for enrollment in the Quapaw Nation. The Courts of the United States have repeated held that children of the representatives of the United States who were born in foreign countries were still native born citizens and entitled to all the rights of such. U. S. vs. Rhode 1 Abb. (U. S.) 43; In re Look Tin Sing 10 Sawyer (U. S.) 505. The same principal holds in the case under consideration with this additional strength that the said Rebecca L. Laughlin was a citizen of the Cherokee Nation at the time of the removal of her parents to the Quapaw Agency under her father's said appointment.

We would also call the attention of the Department to the all significant fact that this claimant has been enrolled upon every roll of the Cherokee Nation that has been made from the time of her adoption into the Nation with the exception of the Roll of 1880, not only on the rolls prior to that date but a number made subsequently thereto.

These rolls have been prepared under the joint authority of the Cherokee Nation and Congress and the Cherokees by their action aforesaid are now estopped to assert that she has no right to such enrollment and has lost her citizenship.

The law of the 28th of June, 1898, under which the Dawes Commission and this Department acquires its authority to enroll or reject applicants for citizenship in the Cherokee Nation, sets out in Section 21 three classes of Indians who shall be enrolled. The first class comprises those on the roll of Cherokee citizens of 1880 (not including freedmen), and all such are to be enrolled together with their descendants born since the date of said roll. The second class who are entitled to enrollment includes all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation, whose parents by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted. The third class includes all other persons whose names are found on any other rolls who have a lawful right to such enrollment and whose names have not been placed thereon by fraud or without authority of law; and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee Laws.

The requirements of these three classes are somewhat different and a careful distinction should be drawn between them. The Act makes a distinction between the names of applicants who are only on rolls prepared by tribal authorities and those prepared in any other manner. The Wallace Roll and the Dickson Roll were both compiled by commissioners appointed under the authority of Congress and are evidently included in the third classification of Section 21. Under this classification the Dawes Commission is to enroll all of

these applicants properly on any ~~xxxthxxxxxxxxxxxx~~ roll and their descendants born since such roll was made. There is no requirement for permanent settlement in this class and a literal construction of section 21 requires the enrollment of Rebecca L. Laughlin and all her children. The authorities are well settled that words must be interpreted in accordance with their plain, ordinary and popular meaning where such interpretation is possible. Moran vs Prather, 23 Wall. 492; R. R. Co. vs Shutte, 103 U. S. 118, 140. Such a construction is to be given as will render it reasonable rather than unreasonable and just rather than unjust. Merriam vs U. S. 107 U. S. 437. Noonan vs Bradley, 9 Wall. 394.

Congress stands in the position of a trustee of the lands and funds of these Indians. The laws are, therefore, to be liberally construed in favor of the claimants and ~~xxxxx~~ against Congress where such a construction is possible. Any other construction of section 21 than the one urged above would result in depriving these parties of their rights of citizenship and their pro rata share in the distribution of the lands and funds of the Cherokee Nation.

In interpreting this statute the evident purpose of the law makers must be considered. ~~22~~ Brick vs Brick, 98 U. S. 514; R. R. Co. vs R. R. Co., 143 U. S. 596. The purpose of this law is evident. Congress intended to provide against fictitious claimants and those who have never actually become citizens of the Nation and who have never done anything to benefit the Nation. The case of these claimants does not come within either the spirit or the letter of the prohibition of Congress. The claimant, Rebecca L. Laughlin, was one of those for whom a large per capita assessment was paid when she became a citizen of the Cherokee Nation. The amount of her assessment thus paid to the Cherokee Nation, at a fair rate of interest for the time that the Nation has had the use and benefit of the same, would amount to a large sum of money

[illegible]

and she should not be deprived of the benefit of said payment upon any technical, unreasonable and unjust construction of the statutes of Congress when any other construction is possible as it is in this case.

Said section 21 of the Act of June 28, 1898, requires the enrolling of the descendants of any person rightfully on any of the rolls where such descendents have been born subsequent to the making of said roll. The name of Levi C. Flint as well as that of Rebecca L. Laughlin, nee Flint, was properly on the Shawnee Registration Roll even if the Department should hold that their names were not properly on the subsequent rolls on which they appear. The children of Rebecca L. Laughlin are descendants of Levi C. Flint and are to be enrolled if the name of said Levi C. Flint is properly on said Registration Roll. The word descendants includes grand-children. 5th Am. & Eng. Ency. Law 641 and citations.

The rights of Rebecca L. Laughlin to tribal ~~xxx~~ property and funds was not affected by her marriage to a white man, said rights being reserved to her unimpaired by the Act of Feb. 8, 1887. Said Act expressly recognizes the right of these Indians to hold their citizenship in their respective tribes although living outside of the limits of the Nation of Indians in which they claim their citizenship. Section 6 of said Act says: "Every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, (i.e. within the limits of the United States) his residence seperate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges and immunities of such citizen, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in

any manner impairing or otherwise affecting the right of any such Indian to tribal or other property". (The words above in brackets are ours and not quoted)

Congress on March 3, 1901, in re-enacting this provision, with amendments as to those entitled to its privileges, has declared it as its intention to allow such persons as these claimant to share in the rights and privileges herein claimed.

Irrespective of the right of Rebecca L. Laughlin to enrollment, her children are entitled to enrollment, first, because they are descendants of those who were rightfully on a roll prepared under the authority of Congress, born since said roll was prepared, and second, because under Indian laws and customs as well as all those of all civilized courts the rights of minors and others under disability are preserved unto them until such time as the disability is removed.

We would also call attention to the fact that while these claimants are not now living strictly within the limits of the Cherokee Nation, their residence for the last 22 years has been just outside of these limits and that the refusal to enroll them because of their non-residence is based upon so technical grounds that the justice, right and equity of the matter demands that they should be enrolled.

We respectfully submit that Rebecca L. Laughlin acquired citizenship in the Cherokee Nation under the treaty of 1866 and the subsequent payments and acts in accordance therewith. That she has never lost said citizenship. That her children are entitled to enrollment and distribution both as her children and as the descendants of Levi C. Flint and Stella A. Flint. That even if their said mother and grandparents have lost their citizenship, the right of enrollment is preserved to them during their monority.

Respectfully submitted,

Harry G. Kimball
Wm Henry White
Attys for applicants.

In Re
Application of Preston W. Browning, and children, Thomas E., Ben F., and Queen E., for enrollment as Cherokees.

No. 42718-1902.

BRIEF ON BEHALF OF THOMAS E., BEN F., AND QUEEN E. BROWNING.

STATEMENT OF FACTS.

The record shows that the applicants are minor children of Preston W. Browning, a white man, and Sarah E. Flint, a Cherokee Indian of Shawnee blood, who were married on Oct. 7th., 1888, in accordance with the laws of the Cherokee Nation, The applicants are identified on the Dixon Roll of Shawnee Cherokees, on the Cherokee pay-roll of 1896 and on the Census roll of 1896.

The name of their mother, Sarah E. Flint, appears on the register of Shawnee Indians, who came to the Cherokee Nation within Two (2) years from June 9, 1869, in accordance with the agreement between the Shawnee tribe of Indians and the Cherokee Nation. At the time of her adoption into the Cherokees, together with the other members of her father's family, there was paid to the Cherokees their per capita assessment amounting to $1749.60. At this time she was a minor, and came to the Cherokee Nation with her father and mother, Levi C. Flint and Stella A. Flint.

In 1874, her father Levi C. Flint was appointed government blacksmith to the Quapaw Indians, and removed that year to the Quapaw Indians' Agency with his family, including said Sarah E. Flint, still a minor. She lived there with her Father till 1880, when the family moved to Seneca, Mo., within eight (8) miles of the Cherokee Nation. There she married Preston W. Browning, and resided there till the time of her death. The applicants, on whose behalf this brief is filed, were born at Seneca, and have always lived there.

The name of their mother does not appear on the rolls, and application for their enrollment is made under the following provision of Sec. 21 of the Curtis Act:

"And they (the commission) shall investigate the rights of all other persons whose names are found on any other rolls, and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful rights thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

ARGUMENT.

1. As the right of these applicants to enrollment is derived from their mother, the first question that arises is: Was Sarah E. Flint properly enrolled as a Cherokee, and would she, if alive at the present time, be entitled to enrollment?

The answer to this question requires the answer to two others namely; Did she ever become a Cherokee citizen? And if so, was her Cherokee citizenship ever forfeited?

1. The answer to the question as to whether she ever became a Cherokee, can only be in the affirmative; for

"A" She complied with the terms of the treaty of 1869 her proportionate part of the amount required to be paid to the Cherokees was paid; and she removed with her father's family into the Cherokee country within two years from the date of the treaty.

"B" It has been authoritatively determined that these Shawnees, who complied with the terms of the said treaty, became Cherokees "on equal terms in every respect [illegible] the privileges and immunities of native citizens of said Cherokee Nation." Cherokee Nation v. Blackfeather 155 U. S. 218.

If it be supposed that the enrollment directed to be made under the Curtis Act had been made before the said Sarah E. Flint removed with her father to the Quapaw Agency as government blacksmith in 1874; can there be any question that under the decision in Cherokee Nation v. Blackfeather, she would have been entitled to

enrollment and to her allotment of Cherokee lands and funds?

In 1874 therefore, Sarah E. Flint was not a Shawnee but a Cherokee with all the rights of any other Cherokee.

2. The next question is, "Has she for any cause forfeited her Cherokee citizenship, so that she now has no rights to share in the allotment of Cherokee lands and funds?"

The following reasons are submitted for answering the question in the negative:

"A" There is nothing in the laws of the United States that would work a forfeiture of her citizenship as a Cherokee because of her removal with her father to the Quapaw Agency, or because of her subsequent residence at Seneca, Mo., or because of her marriage to a white man. On the contrary, the spirit, if not the letter, of the laws of the United States forbids such a forfeiture; for example;

"a" Sec. 6 of Act of Feb. 8, 1887(24 Stat. 390) recognizes the right of an Indian born in the U. S. to take up his residence separate and apart from any tribe of Indians and become a citizen of the U. S., "without, in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property."

"b" Section 2 of Act of Aug. 9, 1888 (25 Stat. 392) provides that an Indian woman marrying a citizen of the U. S. becomes herself a citizen of the U. S.; but the fact shall not in any way impair or effect "the right or title of such married woman to any tribal property or any interest therein."

"c" Section 21 of the Curtis Act recognizes that an Indian may reside outside his tribal limits and yet be a member of the tribe.

"d" The law of the U. S. allows any office holder of the Federal Government to retain his citizenship in the state from which he was appointed, no matter where he may be called in the discharge of his duties. It would scarcely seem reason-

able that the leaving of his tribe by a government blacksmith, while in the service of the government, would feefeit his citizenship in the tribe, or that the taking with him of his minor child would forfeit hers.

"B" There is nothing in the laws of the Cherokee Nation that would work a forfeiture of her Cherokee citizenship.

"a" There is nothing in the Cherokee laws that requires a Cherokee to live within the tribal limits.

"b" If there were such a provision in the Cherokee laws, it would not work a forfeiture of her Cherokee citizenship; for

"a" It would be in conflict with the spirit of the laws of the U. S. as cited above.

"b" The Curtis Act provides " that on and after the passage of this Act, the laws of the various tribes or Nations of Indians shall not be enforced at law, or in equity by the Courts of the U. S. in the Indian Territory."

"C" It is to be remembered that the rights of Sarah A. Flint were acquired under a treaty, by the provisions of which the Cherokee Nation received a substantial sum for receiving the Shawnees into their tribe. If Sarah A. Flint were living, equity and justice would forbid, that the Cherokees should retain this sum, and at the same time deny to her her rights, except for clear and unequivocal reasons.

From theseconsiderations, it appears that Sarah A. Flint did not forfeit her rights of citizenship as a Cherokee, and if living now, she would be entitled to enrollment as a Cherokee.

II. If then, Sarah A. Flint was a Cherokee Indian, and would if living, be entitled to enrollment as a Cherokee under Section 21 of the Curtis Act, are her children, the applicants entitled to enrollment under Section 21?

1. The language of the Statute seems clear that their enrollment was intended by Congress. It provides that the Commission shall enroll all such persons as "may have lawful rights thereto and their descendants born since such rolls were made." Sarah A. Flint's name was on the roll of Shawnee-Cherokees. It was lawfully on said roll, and she became a Cherokee with all the rights of a Cherokee, and did not forfeit her rights as a Cherokee. These applicants for enrollment are "her" descendants, born since such roll was made." They come within the strict letter of the Statute and must be enrolled, unless some provision of the Statute showing clearly a contrary intention of Congress, forbids.

The Commission has decided that the provision of the Curtis Act that "no person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship," excludes these applicants from enrollment as Cherokees

2. It is submitted that a reasonable and fair interpretation of the two provisions just referred to, will not exclude these applicants. The decision of the Commission, if allowed to stand, will exclude every Cherokee child born outside the limits of his tribe, who has resided outside such limits up to the time of his application for enrollment, for it cannot be said of such child that he has "removed to and settled in" the Cherokee country. Such was not the intention of Congress, for

"A" An examination of Section 21, as a whole, shows a contrary intention.

"a" In designating the first class of Cherokees to be enrolled by the Commission, the Section declares: "The Commission ".....is authorized and directed to take the roll of Cherokee Citizens of 1880..... as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon." It is respectfully contended that these words

mean exactly what they say, that "all descendants" include descendants born to Cherokees both within and without the limits of the tribe, and that Congress did not intend, by the provision relied on by the Commission, to limit the meaning of these words to such descendants only, as had removed to and settled within the tribal limits

Persons not descendants of Cherokees, who had never lived in the Cherokee country, but who might claim citizenship because of any Cherokee custom or law, were to be excluded. If Congress had intended to exclude part of the descendants of Cherokees, and to limit such descendants to such only as had settled within the Cherokee country, it would have been easy to express the intention and prescribe the limitations as was done in connection with the second class, where the Commission is directed to enroll as Cherokees "all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation, whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted."

Let it be supposed that a Cherokee, whose name is on the roll of 1880, removed to Missouri Fifteen (15) years ago, that a child has been born to him in Missouri since that time, and that child has lived wih its parents in Missouri all its life. Would not such child clearly be entitled to enrollment as a Cherokee under the provision that "all descendants" of Cherokees, whose manes are on the roll of 1880, shall be enrolled by the Commission?

Now, it is clearly not the intention of the Curtis Act, to make any distinction between Cherokees whose names are omitted from that roll, but rightfully on other rolls, and who are to be placed on the new roll by the Commission. If all the descendants of Cherokees, who are on the roll of 1880, are to be enrolled by the Commission, when born under certain conditions, then all the descendants of other Cherokees who are entitled to enrollment, born under like conditions, are to be enrolled. The language of Section 21

will bear no other reasonable interpretation.

"b" The provision of Section 21 as who shall constitute the Indian tribes after the new roll, as made by the Commission, throws still further light on the meaning of the Section. It is as follows: "The rolls so made when approved by the Secretary of the Interior, shall be final and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the tribes which they represent."

Nothing in the Section indicates the intention of Congress to establish a different rule as to what persons should constitute the tribes before and after the making of the new roll. Certainly after the new roll is made, a Cherokee born outside his tribal limits would not lose his rights to tribal property. The provision as to removal and settling within the tribes, does not apply to descendants born after the new roll shall be made; it was not intended to apply to descendants born before it is made.

"B" The intention of Congress as gathered from other Acts, has been not to discourage but rather to encourage the removal of Indians from within their tribal limits. Examples of this intention are found in Acts already cited, namely: Act of Feb. 8, 1887 (24 Stat. 390) granting citizenship to Indians who take up their residence separate and apart from their tribes, and expressly declaring this to be done "without in any manner impairing or otherwise affecting the right of such Indians to tribal or other property; and in Act of Aug. 9, 1888 (25 Stat. 392) granting citizenship to Indian women who marry U. S. citizens and expressly declaring that nothing in the Act "shall in any way affect the right or title of such married woman to any tribal property or any interest therein." Since such has been the intention of Congress in these Acts, it is not unreasonable to believe that Congress has not intended to place such a discouraging condition upon settling outside the tribal limits, as will deprive the descendants of those who

thus settle, of all interest in tribal property.

"C" If Congress really intended to require the settlement of descendants of Cherokees within the limits of the tribe, that intention must clearly appear before the Act should be construed to defeat the rights of minor children. Every reasonable intendment should be allowed in their favor. It is the well known policy of our law, as indeed it is of all laws, to preserve to minors their rights and privileges till the disability of their minority is removed.

A reasonable interpretation therefore, of Section 21 of the Curtis Act, requires the enrollment of these applicants as Cherokees

In conclusion.

It is therefore respectfully submitted that Sarh A. Flint was a Cherokee Indian, who would, if living, be entitled to enrollment as a Cherokee, and that these applicants who are her descendants are entitled to enrollment under Section 21 of the Curtis Act.

The case of Preston G. Browning himself, is, under the decision of the Commission, one of great hardship. He married Sarah E. Flint in accordance with the Cherokee law believing her to be entitled to all the rights as a Cherokee citizen and, as we have argued above, she was so entitled. Acting in good faith he had invested in the Cherokee Nation at the time of the death of his wife about twenty-five or thirty thousand dollars and as the testimony shows has resided about half his time in the Cherokee Nation.

It is now contended that having remarried a white woman he has lost all rights in said Nation under Section 666 of the Cherokee Statutes.

The Curtis Act provides that in certain cases those who have made improvements in the Cherokee Nation and whose membership is denied by the tribe can secure compensation therefor. This class of persons is specified as those being non-citizens who hold possession under an agreement, lease or improvement contract with either the Nation or a citizen thereof or those who have improvements and whose claims have been decided adversly under the Act of Congress approved June 10, 1896. (Section 3 and 4). There is no evidence in this case to show that this claimant comes under any of these classes, and under the further provisions of the Act, therefore, he can be dispossessed and removed from the lands and tenement and improvements which he has been holding there under his claim of right to citizenship. This will amount to a virtual forfeiture of the amount invested by him, namely twenty-five to thirty thousand dollars without any right of trial or due process of law and is, therefore, unconstitutional.

Respectfully submitted,

Harry G. Kimball,
Wm Henry White,
A. E. L. Leckie
Creed M. Fulton
attys for applicants

IN RE

APPLICATION OF LYDIA K. SPENCER

FOR ENROLMENT OF HERSELF AND

CHILDREN AS CHEROKEE CITIZENS.

BRIEF FOR APPLICANTS.

In re

Application of Lydia K. Spencer

and children for enrollment as

Cherokee citizens.

STATEMENT OF FACTS.

In the case of the claim of Lydia K. Spencer for enrollment for herself and children as Cherokee citizens, the facts are as follows:

She is a daughter of Levi C. and Stella [illegible] lint whose application for enrollment is now before the Department.

In accordance with the Treaty of 1869 between the Shawnees and the Cherokees, Lydia K. Spencer, then Flint, was taken by her parents to the Cherokee Nation where they acquired a farm and lived for some years. The substantial sum of $1749.60 was paid into the Cherokee Nation for the admission of this claimant and her parents to citizenship. The name of this claimant appears upon the Shawnee Registration Roll prepared in accordance with the said Treaty of 1869

The parents of this claimant removed her in 1874 to the Quapaw Agency where her father had been appointed Government blacksmith and where he remained for some years, until 1880, as such blacksmith.

In 1880 she was taken by her parents to Seneca, Mo., where she has lived to the present time, barely eight miles from the limits of the Cherokee Nation.

In 1892 she married Mr. Spencer, a white man, and she has three children, who were respectfully seven, five and three years of age, at the time the testimony in this case was taken. Her husband is dead and she has never remarried.

Her name has been on every roll of the Cherokee Nation except that of 1880, both the rolls prior and those subsequent to that date.

She has never been enrolled in the Quapaw Agency, and never received any allotment or annuity there.

A R G U M E N T.

The question now at issue is, are Lydia K. Spencer and her children entitled to enrollment as members of the Cherokee Nation and to an allotment of the lands and funds of the Nation as members thereof?

There can be no doubt that had the matter of allotment been raised shortly after the adoption of the Shawnees into the Cherokee Nation, there could have been no question about the rights of these claimants in the premises. They were entitled to all the rights, benefits and privileges of Cherokee citizens and would have been entitled to the same per capita distribution and allotment as Cherokees by birth. Cherokee Nation vs. Blackfeather. 155 U. S. 218.

The question then arises, what, if anything, have these claimants done to lose their citizenship? The attorney for the Cherokee Nation relies upon Section 2 of Article I of the Cherokee Constitution and part of Section 21 of the Act of June 28, 1898, known as the Curtis Act as sustaining his contention that these climants have lost their rights to citizenship and are not entitled as Cherokees.

The Section of the Curtis Act alluded to reads as follows: "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship." What is the bearing of this Section on the case at bar? Lydia K. Spencer has surely complied with the Act of Congress. She has removed to the Cherokee Nation and has shown her eminently good faith by paying her proportion of the substantial sum of $1749.60 into the Cherokee Nation for the right to settle. This requirement of Congress has been fully complied with, therefore,

and if nothing else stands in the way it is the duty of the Department to enroll her name and those of her children, all of whom are under twenty-one years of age.

If Congress had intended a removal to the Nation within some specified time prior to the passage of the Act it would have so specified and the Department cannot read into this law any such radical requirement not therein found as would make the removal into the Cherokee Nation by the Treaty of 1869 inefficient because of the elapse of time since said removal. The intent of Congress is clear. They intended to prevent claims being made by those who had no right by blood and those who have never ~~xxxx xxxxxxx~~ shown any disposition to become members of the Cherokee Nation, who have never done anything to benefit the Nation and whose claims are advanced in a purely speculative way. These claimants on the contrary have purchased their right to distribution by paying a large and substantial sum for their rights and should not be deprived of the same upon any mere technicality or legal quibble advanced on behalf of the Cherokee Nation, who, having received the money of these claimants, now attempts to prevent them from sharing in a proper distribution of the lands and money of the Nation.

Section 2 of Article I of the Cherokee Constitution reads as follows: "Whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other government all his rights and privileges as a citizen of this Nation shall cease." The Attorney for the Cherokee Nation contends that this Section has operated to deprive these applicants of the rights which they here claim.

Section 28 of the Curtis Act says: "That on and after the passage of this Act the laws of the various tribes or nations of Indians shall not be enforced at law or in equity by the Courts of the United States in the Indian Territory."

It is true that the Dawes Commission is not a Court of the United States in the Indian Territory and that this is not a proceeding at law or in equity, but they are as much bound by this expressed intention of Congress in all matters arising for decision in Indian affairs, Congress hereby intending that all matters are to be decided by the laws of Congress only and not by the action of the Indian law makers. This seems to be a plain proposition and to wipe away the last remaining objection to the enrollment of these claimants.

See Cherokee Nation v Journeycake, 155 U.S. 196, 199.

But suppose for the purpose of this argument that this section of the Cherokee Constitution is to be given full force and authority, what are its provisions and what is its bearing on the case at bar? Three things must concur: First, he must remove out of the Nation; Second, he must remove his effects; Third, he must become a citizen of some other government. These three requirements are in the conjunctive and the conditions therein provided are not fulfilled until all three have been fully carried out. There is no question but that Levi C. Flint and his wife, Stella A. Flint, took their said daughter, Lydia K. Spencer, with them when they moved from the Cherokee Nation in 1874 when he was appointed to a government position at the Kiowa Agency, and that as far as their living within the actual limits of the lands set aside for the said Nation they have not resided there since said date. It would also seem from the testimony in this case that they took most of their chattels with them upon such removal. - It is in evidence, however, that for many years now Lydia K. Spencer has owned a farm in the Cherokee Nation and that she has improved the same, spending her money to keep it in proper repair, and it is a question well worth considering whether this of itself ought not to prevent her and her children from losing their right to enrollment as claimed at the present time.

The question of citizenship, however, is the most important one, and, as we contend, the controlling one in this case. The claimant must not only have removed out of the limits of the Nation and have taken his effects, but he must also have become a citizen of another government. Has this requirement been fulfilled in this case? Has Lydia K. Spencer become a citizen of another government so as to deprive her and her children of their rights as Cherokee citizens and their proper allotments of land and their distributive share of money.

The decision of the Supreme Court of the United States in the case of Elk vs. Wilkins, 112 U. S. 94, is that an Indian could not become a citizen of the United States. Since then Congress has provided that in certain cases they may become citizens of the United States, but the act of February 8, 1887, and its amendment of March 3, 1891, granting such citizenship expressly declare that when an Indian becomes a citizen of the United States his rights to tribal or other property shall not become impaired or otherwise affected.

The only other government of which ~~xxxxxx~~ Lydia K. Spencer could have become a citizen was one of the other Indian tribes. The testimony is clear that the only other tribe with which she [illegible] at any time and in which she could have obtained citizenship was that of the Indians of the Quapaw Agency. The testimony is uncontested that she never applied for enrollment or annuity there and was never recognized by said nation in any way as being a citizen thereof. If she had acquired any rights in the said Nation it was incumbent upon the attorney for the Cherokee Nation to prove such facts, and his failure so to do leaves this question fully determined. The fact that Levi C. Flint, father of Lydia K. Spencer, removed to the Quapaw Agency as a govern-

ment blacksmith surely did not affect his rights as a member of the Cherokee Nation or the rights of his minor child, Lydia M. Spencer. It is a fact perfectfully well known to the Department that a government employe is entitled to retain his citizenship and all his political rights in the jurisdiction from which he comes when appointed to a government office and why should there be any distinction made between the office holder at his desk in the Department and the office holder serving as a government blacksmith. We respectfully contend that a blacksmith appointed to the Kiowa Indians in accordance with treaty, (Stat. at Large, Vol. 7, p. 4[illegible] Art. III) from the Cherokee Nation, is still a Cherokee citizen and entitled to all his rights and privileges as such citizen unless he formally renounce his allegiance and his citizenship and apply for enrollment in the Kiowa ~~Xxxxx~~ Nation. The Courts of the United States have repeatedly held that children of the representatives of the United State who were born in foreign countries were still native born citizens and entitled to all the rights of such. U. S. vs. Rhode 1 Abb. (U. S.) 4[illegible]; In re Look Tin Sing 10 Sawyer (US) 1[illegible]. The same principle holds in the case under consideration with this additional strength that the said Lydia M. Spencer was a citizen of the Cherokee Nation at the time of the removal of her parents to the Kiowa Agency under her father's said appointment.

We would also call the attention of the Department to the all significant fact that this claimant has been enrolled upon every roll of the Cherokee Nation that has been made from the time of her adoption into the Nation with the exception of the Roll of 1880, not only on the rolls prior to that date but a number made subsequently thereto. These rolls have been prepared under the joint authority of the Cherokee Nation and Congress and the Cherokees by their ac-

tion aforesaid are now estopped to assert that she has no right to such enrollment and has lost her citizenship.

The law of the 28th of June, 1898, under which the Dawes Commission and this Department acquires its authority to enroll or reject applicants for citizenship in the Cherokee Nation, sets out in Section 21 three classes of Indians who shall be enrolled. The first class comprises those on the roll of Cherokee citizens of 1880 (not including freedmen) and all such are to be enrolled together with their descendants born since the date of said roll. The second class who are entitled to enrollment includes all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation, whose parents by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted. The third class includes all other persons whose names are found on any other rolls who have a lawful right to such enrollment and whose names have not been placed thereon by fraud or without authority of law; and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws.

The requirements of these three classes are somewhat different and a careful distinction should be drawn between them. The act makes a distinction between the names of applicants who are only on rolls prepared by tribal authorities and those prepared in any other manner. The Wallace Roll and the Dickson Roll were both compiled by Commissioners appointed under the authority of Congress and are evidently included in the third classification of Section 21. Under this classification the Dawes Commission is to enroll all of these applicants properly on any roll and their descendants born since such roll was made. There is no requirement for

permanent settlement in this class and a literal construction of Section 21 requires the enrollment of Lydia M. Spencer and all her children. The authorities are well settled that words must be interpreted in accordance with their plain, ordinary and popular meaning where such interpretation is possible. Horan vs. Prather, 23 Wall. 492; N. P. Co. vs Chutte, 163 U. S. 118, 140. Such a construction is to be given as will render it reasonable rather than unreasonable and just rather than unjust. Merriam vs U. S. 107 U. S. 437. Noonan vs. Bradley, 9 Wall. 394.

Congress stands in the position of a trustee of the lands and funds of these Indians. The laws are, therefore, to be liberally construed in favor of the claimants and against Congress where such a construction is possible. Any other construction of Section 21 than the one urged above would result in depriving these parties of their rights of citizenship and their pro rata share in the distribution of the lands and funds of the Cherokee Nation.

In interpreting this statute the evident purpose of the law makers must be considered. Erick vs. Erick, 96 U. S. 214; A. T. Co. vs. T. T. Co., 165 U. S. 366. The purpose of this law is evident. Congress intended to provide against fictitious claimants and those who have never done anything to benefit the Nation. The case of these claimants does not come within either the spirit or the letter of the prohibition of Congress. The claimant, Lydia M. Spencer, was one of those for whom a large per capita assessment was paid when she became a citizen of the Cherokee Nation. The amount of her assessment thus paid to the Cherokee Nation, at a fair rate of interest for the time that the Nation has had the benefit and use of the same, would amount to a large sum of money and she should not be deprived of the benefit of said payment upon any technical, unreasonable and unjust construction of the statutes of Congress when any other con-

struction is possible as it is in this case.

Said section 21 of the Act of June [illegible], 1866, requires the enrolling of the descendants of any person rightfully on any of the rolls where such descendants have been born subsequent to the making of said roll. The name of Levi C. Flint as well as that of Lydia [illegible] Spencer, nee Flint, was properly on the Shawnee Registration Roll even if the Department should hold that their names were not properly on the subsequent rolls on which they appear. The children of Lydia M. Spencer are descendants of Levi C. Flint and are to be enrolled if the name of the said Levi C. Flint is properly on said registration roll. The word descendants includes grand-children. [illegible] Ency. Law 2d and citations.

The rights of Lydia [illegible] Spencer to tribal property and funds was not affected by her marriage to a white man, said rights being reserved to her unimpaired by the Act of Feb. 8, 1887. Said Act expressly recognizes the right of these Indians to hold their citizenship in their respective tribes although living outside of the limits of the Nation of Indians in which they claim their citizenship. Section 6 of said Act says: "Every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, (i. e. within the limits of the United States) a permanent abode separate from any tribe of Indians therein, and has adopted the habits of civilized life is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges and immunities of such citizen, whether such Indian has or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property." (The words above in brackets are ours and not quoted). -9-

Congress on March 3, 1901, in re-enacting this provision, with amendments as to those entitled to its privileges, has declared it to be its intention to allow such persons as these claimants to share in the rights and privileges herein claimed. Sherman Act Aug. 4, 1888, (25 Stat. 392)

Irrespective of the right of Lydia M. Spencer to enrollment, her children are entitled to enrollment, first, because they are descendants of those who were rightfully on a roll prepared under the authority of Congress, born since said roll was prepared, and second, because under Indian laws and customs as well as all those of all civilized courts the rights of minors and others under disability are preserved unto them until such time as the disability is removed.

We would also call attention to the fact that while these claimants are not now living strictly within the limits of the Cherokee Nation, their residence for the last 22 years has been just outside of these limits and that the refusal to enroll them because of their non-residence is based upon mere technical grounds that the justice, right and equity of the matter demands that they should be enrolled.

We respectfully submit that Lydia M. Spencer acquired citizenship in the Cherokee Nation under the treaty of 1866 and the subsequent payments made to her in accordance therewith. That she has never lost said citizenship. That her children are entitled to enrollment and distribution both as her children and as the descendants of Levi C. and Stella A. Flint. That even if their said mother and grandparents have lost their citizenship, the right of enrollment is preserved to them during their minority.

Respectfully submitted,

Harry G. Kimball
Wm. Henry White
Attys for appellant

IN RE:
APPLICATION OF GEORGE L. FLINT
FOR ENROLLMENT AS A CHEROKEE
CITIZEN.

BRIEF FOR APPLICANT.

In re

Application of George L. Flint,

for enrollment as a Cherokee

Citizen.

No. 316.

BRIEF FOR APPLICANT.

Statement of Facts.

In the case of the application of George L. Flint ofor enrollment as a Cherokee citizen, the facts are as follows:-

He is a son of Levi C. Flint and Stella A. Flint whose application for enrollment is now before the Department.

In accordance with the Treaty of 1869 between the Shawnees and the Cherokees, George L. Flint was taken by his parents to the Cherokee Nation where they lived until 1874. By reference to the case of his said parents we find that the substantial sum of $1749.60 was paid into the Cherokee Nation for the admission of his parents and their children into the Cherokee Nation as citizens. The name of this claimant appears on the Shawnee Registration Roll as prepared in accordance with the said Treaty of 1869.

The parents removed this claimant in 1874 to the Quapaw Agency, where we find by reference to the case of his parents, his father was employed by the Government having been appointed as Government blacksmith there and where he remained with his parents for about three years. He then went to Kansas where he lived for a short time going from there to Wyoming where he remained for seven or eight years, thence going to Nebraska for one year. In 1894 he came to Seneca, Missouri, where he has lived ever since.

He has never become a citizen of the Quapaw Indians or

of any other tribe and has never received any allotment or annuity in any place except among the Cherokees.

A R G U M E N T.

The question now at issue is, is George L. Flint entitled to enrollment as a member of the Cherokee Nation and to an allotment of the lands and funds of the Nation as a member thereof?

There can be no doubt that had the matter of allotment been raised shortly after the adoption of the Shawnees into the Cherokee Nation, there could have been no question about the right of this claimant in the premises. He was entitled to all the rights, benefits and privileges of a Cherokee citizen and would have been entitled to the same per capita distribution and allotment as a Cherokee by birth. Cherokee Nation vs. Blackfeather. 155 U. S. 218.

The question then arises, what, if anything, has this claimant done to lose his citizenship? The attorney for the Cherokee Nation in cases similar to this relies on Section 2 of Article 8 of the Cherokee Constitution and part of Section 21 of the Act of June 28, 1898, known as the Curtis Act as sustaining his contention that this claimant has lost his right to citizenship and is not entitled as a Cherokee.

The Section of the Curtis Act alluded to reads as follows: "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship." What is the bearing of this Section on the case at bar? George L. Flint has surely complied with the Act of Congress. He has removed to the Cherokee Nation and has showed his eminently good faith by paying his proportion of the substantial sum of $1749.60 into the Cherokee Nation for the right to settle. This requirement of Congress has been fully complied with, therefore, and if nothing else stands in the way it is the duty of the Department to enroll his name

If Congress had intended a removal to the Nation within some specified time prior to the passage of the Act it would have so specified and the Department cannot read into this law any such radical requirement not therein found as would make the removal into the Cherokee Nation by the Treaty of 1869 inefficient because of the elapse of time since said removal. The intent of Congress is clear. They intended to prevent claims being made by those who had no right by blood and those who have never shown any disposition to become members of the Cherokee Nation, who have never done anything to benefit the Nation and whose claims are advanced in a purely speculative way. This claimant on the contrary has purchased his right to distribution by paying a large and substantial sum for his rights and should not be deprived of the same upon any mere technicality or legal quibble advanced on behalf of the Cherokee Nation, who, having received the money of this claimant, now attempts to prevent him from sharing in a proper distribution of the lands and funds of the Nation.

Section 2 of Article I of the Cherokee Constitution reads as follows: "Whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other government all his rights and privileges as a citizen of this Nation shall cease." The attorney for the Cherokee Nation contends that this Section has operated to deprive this claimant of the rights which he here claims.

Section 28 of the Curtis Act says: "That on and after the passage of this Act the laws of the various tribes or nations of Indians shall not be enforced at law or in equity by the Courts of the United States in the Indian Territory." It is true that the Dawes Commission is not a Court of the United States in the Indian Territory and that this is not a proceeding at law or in equity, but they are as much bound by this expressed intention of Congress in all matters arising for decision in Indian affairs, Congress hereby intending

that all matters are to be decided by the laws of Congress only and not by the action of the Indian law makers. This seems to be a plain proposition and to wipe away the last remaining objection to the enrollment of this claimant.

See Cherokee Nation vs Journeycake, 155 U.S. 196, 199.

But this Section of the Cherokee Constitution has been amended so that the parts referred to above have been stricken out and, therefore, cannot control the determination of this case. Cherokee Nation vs. Journeycake, 155 U. S. 196.

But suppose for the purpose of this argument that this Section of the Cherokee Constitution is to be given full force and authority, what are its provisions and what is its bearing on the case at bar? Three things must concur: First, he must remove out of the Nation; Second, he must remove his effects; Third, he must become a citizen of some other government. These three requirements are in the conjunctive and the conditions therein provided are not fulfilled until all three have been fully carried out. There is no question but that Levi L. Flint and his wife, Stella L. Flint, took their said son, George L. Flint, with them when they moved from the Cherokee Nation in 1874 when he was appointed to a government position at the Quapaw Agency, and that as far as their living within the actual limits of the lands set aside for the said Nation they have not resided there since said date. It would also seem from the testimony in this case that they took most of their chattels with them upon such removal.

The question of citizenship, however, is the most important one, and, as we contend, the controlling one in this case. The claimant must not only have removed out of the limits of the Nation and have taken his effects, but he must also have become a citizen of another government. Has this requirement been fulfilled in this case? Has George L. Flint become a citizen of another government so as to deprive him of his rights as a Cherokee citizen and his proper allotment of land and his distributive share of money.

The decision of the Supreme Court of the United States in the case of Elk vs. Wilkins, 112 U. S. 94, is that an Indian could not become a citizen of the United States. Since then Congress has provided that in certain cases they may become citizens of the United States, but the Act of February 8, 1887, and its amendment of March 3, 1901, granting such citizenship expressly declare that when an Indian becomes a citizen of the United States his rights to tribal or other property shall not become impaired or otherwise affected.

The only other government of which George L. Flint could have become a citizen was one of the other Indian tribes. The testimony is clear that the only other tribe with which she has lived at any time and in which he could have obtained citizenship was that of the Indians of Quapaw Agency. The testimony is undisputed that she never applied for enrollment or annuity there and was never recognized by said Nation in any way as being a citizen thereof. If she had acquired any rights in the said Nation it was incumbent upon the attorney for the Cherokee Nation to prove such facts, and his failure so to do leaves this question fully determined. The fact that Levi C. Flint, father of George L. Flint, removed to the Quapaw Agency as a government blacksmith surely did not affect his rights as a member of the Cherokee Nation or the rights of his minor child, George L. Flint. It is a fact perfectly well known to the Department that a government employe is entitled to retain his citizenship and all his political rights in the jurisdiction from which he comes when appointed to a government office and why should there be any distinction made between the office holder at his desk in the Department and the office holder serving as a government blacksmith. We respectfully contend that a blacksmith appointed to the Quapaw Agency in accordance with Treaty, (Stat. At Large, Vol. 7, p. 425 Art. III) from the Cherokee Nation, is still a Cherokee citizen and entitled to all his rights and privileges as such citizen un-

less he formally renounce his allegiance and his citizenship and apply for enrollment in the Cherokee Nation.

The law of the 28th of June, 1898, under which the Dawes Commission and this Department acquires its authority to enroll or reject applicants for citizenship in the Cherokee Nation, sets out in section 21 three classes of Indians who shall be enrolled. The first class comprises those on the roll of Cherokee citizens of 1880 (not including freedmen), and all such are to be enrolled together with their descendants born since the date of said roll. The second class who are entitled to enrollment includes all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Nation, whose parents xxxx by reason of their Cherokee blood, have been xxxxxxxx lawfully admitted to citizenship by the tribal authorities and who were minors when their parents were so admitted. The third class includes all other persons whose names are found on any other rolls who have a lawful right to such enrollment and whose names have not been placed thereon by fraud or without authority of law; and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws.

The requirements of these three classes are somewhat different and a careful distinction should be drawn between them. The act makes a distinction between the names of applicants who are only on rolls prepared by tribal authorities and those prepared in any other manner. The Cherokee-Shawnee Registration Roll was prepared under the authority of Congress and is evidently included in the third classification of section 21. There is no requirement for permanent settlement in this class and a liberal construction of section 21 requires the enrollment of this claimant. The authorities are well settled that words must be interpreted in accordance with their plain, ordinary and popular meaning where such interpretation is poss-

ible. Moran vs. Prather, 23 Wall. 492; N. P. Co. vs. Chutte, 165 U. S. 118, 143. Such a construction is to be given as will render it reasonable rather than unreasonable and just rather than unjust. Merriam vs. U. S. 107 U. S. 437. Noonan vs. Bradley, 9 Wall. 394.

Congress stands in the position of a trustee of the lands and funds of these Indians. The laws are, therefore, to be liberally construed in favor of this claimant and against Congress where such a construction is possible. Any other construction of Section 21 than the one urged above would result in depriving this claimant of the right of citizenship and his pro rata share in the distribution of the lands and money of the Cherokee Nation.

In interpreting this statute the evident purpose of the law makers must be considered. Brick vs. Brick, 98 U. S. 514; N. R. Co. vs. N. R. Co., 143 U. S. 596. The purpose of this law is evident. Congress intended to provide against fictitious claimants and those who have never actually become citizens of the Nation and who have never done anything to benefit the Nation. The case of this claimant does not come within either the spirit or the letter of the prohibition of Congress. The claimant, George W. Flint, was one of those for whom a large per capita assessment was paid when he became a citizen of the Cherokee Nation. The amount of his assessment thus paid to the Cherokee Nation, at a fair rate of interest for the time that the Nation has had the use and benefit of the same, would amount to a large sum of money and he should not be deprived of the benefit of said payment upon any technical, unreasonable and unjust construction of the statutes of Congress when any other construction is possible as it is in this case.

The Act of February 8, 1887, expressly recognizes the right of these Indians to hold their citizenship in their respective tribes although living outside of the limits of the Nation of Indians in which they claim their citizenship. Section 6 of

said Act says: "Every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, (i. e. within the limits of the United States) his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges and immunities of such citizen, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in manner impairing or otherwise affecting the right of any such Indian to tribal or other property." (The words above in brackets are ours and not quoted).

Congress on March 3, 1901, in re-enacting this provision, with amendments as to those entitled to its privileges, has declared it as its intention to allow such persons as this claimant to share in the rights and privileges herein claimed.
Citizenship Act Aug. 9, 1888, 25 Stat 392.

We would also call attention to the fact that while this claimant is not now living strictly within the limits of the Cherokee Nation his residence for a number of years last past has been just outside of these limits and that the refusal to enroll him because of his non-residence is based upon so technical grounds that the justice, right and equity of the matter demands that he should be enrolled.

We respectfully submit that George W. Flint acquired citizenship in the Cherokee Nation under the Treaty of 1869 and the subsequent payments and acts in accordance therewith. That he never lost said citizenship and that he is now entitled to enrollment and distribution as a citizen of said Nation.

Respectfully submitted,

Harry G. Kimball
Wm Henry Wluto
Attys for applicants.

IN RE

APPLICATION OF GERTRUDE F. FLINT

FOR ENROLLMENT AS A CHEROKEE

CITIZEN.

BRIEF FOR APPLICANT.

In re)
Application of Gertrude F. Flint)
for enrollment as a Cherokee)
Citizen.)

B R I E F F O R A P P L I C A N T.

Statement of Facts.

In the case of the claim of Gertrude F. Flint for enrollment as a Cherokee citizen, the facts are as follows:-

The testimony in this case shows that this claimant is a daughter of Levi C. Flint and Stella A. Flint. That in accordance with the treaty between the Shawnees and the Cherokees in 1869 her parents moved to the Cherokee Nation in 1871 and lived there until 1874. By reference to this other case, we find that the substantial sum of 1749760 was paid into the Cherokee Nation for the right of citizenship by her parents. She was born at the Quapaw Agency where her parents had moved in 1874 upon her father being appointed Government blacksmith there.

In 1880 she was taken by her parents to Seneca, Missouri, where she lived barely eight miles from the limits of the Cherokee Nation.

At the time the testimony was taken she had been living for two years in Wisconsin where she was a teacher as, employed by the Government.

Her name is on the Shawnee pay roll of 1894 and 1896, and on the Wallace and Dickeen Rolls.

She has never joined any other tribe or nation than the Cherokees and has never been recognized by the Indians of the Quapaw Agency as being a citizen among them.

A R G U M E N T .

The question now at issue is, is Gertrude F. Flint entitled to enrollment as a citizen of the Cherokee Nation and to an allotment of the lands and funds of the Nation as such citizen.

The first question that arises in this connection relates to her parents. What was the citizenship of Levi C. Flint and Stella A. Flint at the time of the birth of this claimant.

There can be no question that had the matter of the citizenship of her parents been raised shortly after their adoption into the Cherokee Nation in accordance with the treaty of 1869, there could have been no dispute as to their rights in the premises. They were entitled to all the rights benefits and privileges of Cherokee citizens and would have been entitled to the same per capita distribution and allotment as Cherokees by birth. Cherokee Nation vs Blackfeather, 155 U. S. 218.

The question then arises what, if anything, have either these parents or this claimant done to lose the right of citizenship? In regard first to the parents, the attorney for the Cherokee Nation relies upon section 2 of Article I of the Cherokee Constitution and part of Section 21 of the Act of June 28, 1898, known as the Curtis Act, as sustaining his contention that the parents of this claimant have lost their rights to citizenship and are not entitled as Cherokees.

The section of the Curtis Act alluded to reads as follows:- "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship." What is the bearing of this section on the citizenship of said parents? This was set forth at length in the brief filed for said Levi C. Flint and his wife before this Department, but we also set it forth here. The said Flints have surely complied with this Act of Congress.

They have removed to the Cherokee Nation and have showed their eminently good faith by paying the substantial sum of $1749.60 into the Cherokee Nation for the right to settle. This requirement of Congress has been fully complied with, therefore, and if nothing else stands in the way the said parents of this claimant were Cherokee citizens at the time of the birth of this claimant.

If Congress had intended a removal to the Nation within some specified time prior to the passage of the Act it would have so specified and the Department cannot read into this law any such radical requirement not therein found as would make the removal into the Cherokee Nation under the Treaty of 1869 inefficient because of the lapse of time since said removal. The intent of Congress is clear. They intended to prevent claims being made by those who had no right by blood or by pruchase and who have never done anything to benefit the Nation but whose claims are advanced in a purely speculative way. The parents of this claimant on the contrary purchased their right to citizenship by paying the large and substantial sum therefore, and should not be deprived of the same upon any mere technicality or legal quibble advanced on behalf of the Cherokee Nation who, having received the money of these claimants, now attempt to prevent them from sharing in a proper distribution of the lands and funds of the Nation.

Section 2 of Article I of the Cherokee Constitution reads as follows: "Whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other governmnet all his rights and privileges as a citizen of this Nation shall cease." The attorney for the Cherokee Nation contends that this section has operated to deprive these applicants of the rights which they here claim.

As was shown in the brief filed in the case of the said Levi C. and Stella A. Flint before this Department this section

has been repealed by Section 26 of the Curtis Act. (Reference is hereby made to the brief in the case of Levi C. Flint) See Cherokee Nation vs Journeycake, 155 U.S. 196, 199.

It is further shown in said brief that even if this section of the Cherokee Constutution is in force, three things must concur in order to have it effective. First, he must remove out of the Nation; Second he must remove his effects; Third, he must become a citizen of some other Government. The fact that said Levi C. Flint and his wife, the parents of this claimant, had never become a citizen of any other Government was fully set forth in the brief in their cases, pages 4, 5 and 6, which is hereby referred to and prayed to be read as a part hereof.

If then, at the time of the birth of this claimant Gertrude F. Flint, her parents were citizens of the Cherokee Nation and entitled to all the rights, benefits and privileges of such citizens, this claimant is also a Cherokee citizen, although born outside of the limits of the Nation. Her father was at the Quapaw Agency as a Governemnt employee, but was in reality a citizen of the Cherokee Nation temporarily absent from the limits of the Nation.

We would also call the attention of the Department to the all significant fact that this claimant has been enrolled upon every roll of the Cherokee Nation since her birth with the exception of the Roll of 1880. These rolls have been prepared under the joint authority of the Cherokee Nation and Congress and the Cherokees by their action aforesaid are now estopped to assert that she has no right to such enrollment and has lost her citizenship.

The law of the 28th of June, 1898, under which the Dawes Commission and this Department acquires its authority to enroll or reject applicants for citizenship in the Cherokee Nation, sets out in Section 21 three classes of Indians who

shall be enrolled. The first class comprises those on the roll of Cherokees citizens of 1880 and all such are to be enrolled together with their descendants born since the date of said roll. The second class who are entitled to enrollment includes all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation, whose parents by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted. The third class includes all other persons whose names are found on any other rolls who have a lawful right to such enrollment and whose names have not been placed thereon by fraud or without authority of law; and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws.

The requirements of these three classes are somewhat different and a careful distinction should be drawn between them. The Act makes a distinction between the names of applicants who are only on rolls prepared by tribal authorities and those prepared in any other manner. The Wallace Roll and the Dickson Roll were both compiled by commissioners appointed under the authority of Congress and are evidently included in the third classification of Section 21. Under this classification the Dawes Commission is to enroll all applicants properly on any roll and their descendants born since such roll was made. There is no requirement for permanent settlement in this class and a liberal construction of Section 21 requires the enrollment of Gertrude F. Flint. The authorities are well settled that words must be interpreted in accordance with their plain, ordinary and popular meaning where such interpretation is possible. Moran vs. U. S. 107 U. S. 457. McGonan vs. Bradley, 9 Wall. 394.

Congress stands in the position of a trustee of the lands

and funds of these Indians. The laws are, therefore, to be liberally construed in favor of the claimants and against Congress where such a construction is possible. Any other construction of Section 21 than the one urged above would result in depriving ~~them~~ this party of her right of citizenship and her prorata share in the distribution of the lands and funds of the Cherokee Nation.

In interpreting this Statute the evident purpose of the law makers must be considered. Brick vs. Brick, 98 U. S. 514; N. R. Co. vs. R. R.Co. 143 U. S. 596. The purpose of this law is evident. Congress intended to provide against fictitious claimants and those who have never showed any intention to become bona fide citizens of the Nation. This claimant does not come within such a class. Her parents were Cherokee citizens who had purchased that right by the payment of a large sum of ~~x~~ money into the funds of the said Cherokee Nation and both they and she should not be deprived of the benefit of said payment upon any technical, unreasonable and unjust construction of the statutes of Congress when any other construction is possible as it is in this case.

Said Section 21 of the Act of June 28, 1898, requires the enrolling of the descendants of any person rightfully on any of the rolls where such descendants have been born subsequent to the making of said roll. The name of Levi C. Flint as well as that of his wife was properly on the Shawnee Registration Roll. This claimant is a descendant of the said Flints and was born subsequent to the making of said roll. She is, therefore, entitled to enrollment as such.

The Act of February 8, 1887, expressly recognizes the right of this claimant to hold her citizenship in her tribe although living outside of the limits of the Nation to which she belongs. Section 6 of said Act says: "Every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, (i. e. within the limits of the United States) his residence separate and apart

from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States and is entitled to all the rights, privileges and immunities of such citizen, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property." (The words above in brackets are ours and not quoted).

Congress on March 3d, 1901, in re-enacting this provision, with amendments as to those entitled to its ~~provisions~~ privileges, has declared it as its intention to allow such persons as this claimant to share in the rights and privileges herein claimed. Sikeuse Act Aug. 9, 1888 (25 Stat 392)

We would also call attention to the fact that while the home of this claimant in Seneca, Missouri is not strictly within the limits of the Cherokee Nation, her residence there is just outside of these limits and that the refusal to enroll her because of her non-residence is based upon so technical grounds that the justice, right and equity of the matter demands that they should be enrolled.

We respectfully submit that Gertrude F. Flint is entitled to enrollment and to a share in the allottment of lands and distribution of money, as Cherokee citizen.

Respectfully submitted,

Harry G. Kimball
Wm Henry White,
attys for applicants.

IN THE DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes.

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In re)
Application of Rebecca L. Laughlin, :
et al., for enrollment as citizens)
of the Cherokee Nation. :

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BRIEF ON BEHALF OF APPLICANTS.

Statement of Facts.

Levi C. Flint and Stella A. Flint were members of the Shawnee Tribe of Indians and came to the Cherokee Nation before June 7, 1871, under the terms of the Cherokee- Shawnee agreement of June 7, 1869, by which they became entitled to all of the rights and privileges of Cherokee citizens. They brought with them their children, George L. Flint, Sarah E. Flint(Browning), Rebecca L. Flint(Laughlin), and Lydia K. Flint(Spencer), all of whose names appear on the Shawnee-Cherokee Register Roll of 1871. Gertrude F. Flint is a daughter, born since 1871, in the Territory

The Flints settled on a farm in the Cherokee Nation and remained for a little over three years, or until the fall of 1874. Mr. Flint paid $600.00 for a house, fenced ten or twelve acres of land, plowed it and continued to farm for three years or more. He had a cow and calf, some plows and a harrow, a team of horses and a team of mules. Thus equipped on his farm, which, as witness Weaver says, was a pretty good farm for those days, there is every reason to suppose the family considered itself firmly established.

But hard times were ahead. The horses and mules died. Flint had nothing with which to buy more. Without such stock, farming was out of the question. The condition now amounted to a calamity. Three years had reduced them almost to poverty.

Flint then secured the position of government blacksmith at the Quapaw Agency and removed there in the fall of 1874, taking all his family, including Mrs. Laughlin, remaining there until about 1882. He left in the Nation all his property including his house, fences, farming implements and cattle.

When Mrs. Laughlin became of age, some of this stock was still in the Nation. For a more extended statement, see the Flints case.

Since her marriage Mrs. Laughlin has continued to live in Seneca, Missouri, with her husband and has nine children, all of whom were minors when her application was made for enrollment. She has not had a single day when she was not under legal disability either of infancy or coverture.

She and all of her children then living were enrolled in 1896 and received their share of the strip money. She has owned a farm in the Nation since 1895 and this money was used in purchasing other improvements, all of which she continues to own.

Argument.

In connection with this brief we ask a careful reading of the brief filed by us in the case of Levi C. Flint, et al.

Rebecca L. Laughlin is properly on the roll of 1871. She was a minor when her father took her to the Quapaw Agency and she was married on her eighteenth birthday. There has not been one day of her life when she has not been under legal disabilities

We take it that the only objection to these applicants is now the one heretofore raised, namely, paragraph nine of section twenty-one, Act of June 28, 1898:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

"The purpose of this provision", said the Assistant Attorney-General on March 16, 1903, in the Yeargains cases and the Secretary of the Interior on the same day, "is clearly seen when

read in the light of the history of the Cherokee Nation. x x x x It was therefore against those who had never idenitifed themselves with the Nation and those who had withdrawn themselves from the Indian people that this provision of the statute was aimed. It was for the protection of the Cherokee people and in harmony with the provisions of the Cherokee Constitution. That instrument defines how Cherokee nationality shall be lost or forfeited, viz:

> That whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other government, all his rights and priwileges as a citizen of this Nation shall cease. . . ."

Certainly Mrs. Laughlin "identified herself with the Nation." She came under the treaty and lived in the Nation for more than three years and until driven out by poverty. "The statute" was not "aimed" at Mrs. Laughlin on that account. There is left only "those who had withdrawn themselves from the Indian people" and the Yeargains decision explains who they are in showing how "Cherokee nationality shall be lost or forfeited," thus:

"There are three elements clearly defined which must concur to effect forfeiture of nationality, or complete expatriation -- viz: removal of the person, coupled with removal of all effects and property, and acquisition of another nationality by assuming the obligations of citizenship there. To these tests and for their construction there is also another, implied but not mentioned -- viz: the intent with which such acts be done, for if all property and the person were for some temporary purpose removed from the Nation, and if acts were done which might bear the construction of assuming obligations of citizenship in another community -- as voting there for instance -- yet if the removal of person and property were for some temporary purpose and with intent to return, and the acts implying an assumption of duties of citizenship elsewhere had no such purpose, then the change of citizenship would not follow."

Under this decision then, four things must concur, else the Laughlins must be enrolled, viz:

1. Removal from the Nation.

2. Removal of effects.

3. Become a citizen of another government.

4. Do all of the above with the intent to abandon their Cherokee citizenship.

"Applying such tests to the facts in the present case, it is clear that the Laughlins have not lost their Cherokee nationality." They have done the first of the four, but neither the second, third nor fourth. We take them in order.

2. Effects. Flint left in the Cherokee Nation a house which had cost him $600.00; he left his agricultural implements and if they were few they were all he had; he left his fences; and he left a cow and a yearling; Cherokee counsel tried to be facetious about the cow and calf, but the record criticises the effort, in showing thirteen head of cattle and ten years or maybe more during which Flint kept them in the Nation after his removal, Certainly, Flint did not remove his effects and must be enrolled. His daughter, Mrs. Laughlin, up to the day of her marriage was a minor and, like Marjorie Yearguin, was then entitled to enrollment

3. Another Government. Did Mrs. Laughlin become a citizen of another government? The only one she is charged with joining is Missouri. She must first have become a citizen of the United States, or at least have declared her intention so to do, either of which was legally impossible until 1887.

Elk vs. Wilkins, 112 U. S., 94.

This case having decided that an Indian, of a tribe still having a tribal organization, may not become a citizen of the United States except by under act of Congress, we invite attention to the Acts on the subject.

The Act of February 8, 1887, (24 Stat.,390) granted citizenship to Indians who take up their residence separate and apart from anytribe of Indians, "without in any manner impairing or otherwise affecting the right of any Indian to tribal or other

property." This was amended March 3, 1901, (31 Stat., 1447) so as to include " all Indians in Indian Territory", but tribal rights are not affected by this amendment.

The Act of August 9, 1888, (25 Stat., 392) granting citizenship to Indian women who marry United States citizens expressly declares also that nothing in that Act "shall in any way affect the right or title of such married women to any tribal property or any interest therein."

How then could Mrs. Laughlin become a citizen of the United States so as to forfeit her rights to tribal property? Clearly not under the Acts of Congress; and the Supreme Court has said she can in no other way. Is there conflict between the Acts of Congress and the Cherokee Constitution? Then, the Acts of Congress prevail.

U. S. vs. Rogers, 4 How., 567, 573;
Choctaw Nation vs. U. S., 119 U. S., 27;
Stephens vs. Cherokee Nation, 174 U. S., 487.

Under the Cherokee Constitution a citizen must become a citizen of another government to lose his tribal rights. The Acts of Congress say that a Cherokee becoming a citizen of the United States will not lose his tribal rights of property. The Acts of Congress prevailing, the Cherokee provision must be limited to other Indian governments.

Since Mrs. Laughlin has not become a citizen of another government so as to lose her tribal rights she and her ~~minor~~ children must be enrolled.

4. Intent. Mrs. Laughlin has never had the chance to legally express her will in acts. She was taken by her father out of the Cherokee Nation when a child. She lived with him until she married. The very day she attained her majority she married and has had no legal choice of a home since. She has lived as required to do in the home provided by her husband. There are no acts indicating her intent either way until she received her share of the strip money and therefore had a separate estate.

This is the first chance she had to indicate her preference, to express her intent and she does so by using this, her separate estate, to purchase a farm in the Cherokee Nation.

Mrs. Laughlin should therefore be enrolled because of her disability to comply with the removal clause and because she has not lost her rights to tribal property by her marriage.

5. Descendants. The children of Mrs. Laughlin are all descendants of Lewi C. and Stella A. Flint, their grandchildren. They were all minors when application was made. The Commission has investigated the roll of 1871 and has found ~~them~~ the Flints there properly. They must be enrolled because they have done no act to forfeit their rights. They are therefore to be enrolled "with their descendants born since such roll was made." All of Mrs. Laughlin's children are descendants born since 1871. The Act is plain and grandchildren are descendants. See the cases collected in 9 Am. & Eng. Ency. Law, 2d Ed., pp. 399 and 400, as to the meaning of "descendants".

Paragraph nine, section twenty-one, Curtis Act, is ambiguous and needs construction. A few of the ordinary rules are; we are to look at the whole context and give effect to all provisions, consider the objects intended to be subserved by the legislation and while the ordinary and popular meaning of words should be given where such an interpretation is possible, yet the operation of the statute should be retrained within narrower limits where its literal meaning would extend to cases which the legislation never intended to include in it. Market Co. vs. Hoffman 101 U. S., 116. A construction is to be given rendering the act reasonable rather than unreasonable and just rather than unjust. Merriam vs. U. S., 107 U. S., 437; Noonan vs. Bradley, 9 Wall., 394. Where one meaning will disinherit these children and another possible one will not so result, we must take the latter. Underhill on Wills, Sec. 332, Vol. 1, p. 445. "All laws are to be so construed as to avoid an unjust or absurd conclusion; and

general terms are to be so limited in their application as not to lead to injustice, oppression or an absurd consequence. Lau Ow Bew vs. U. S., 144 U. S., 47, 61.

Applying these rules, we find that the Dawes Commission is authorized in making rolls of citizenship of the tribes to take the roll of 1880 "and all descendants born since the date of said roll of persons whose names are found thereon." The word persons applies to those whose names appear on the roll. Descendants refers to children who are enrolled by virtue of their ancestors' names appearing on the roll. The Commission is to "investigate the rights of all other persons whose names are found on any other rolls", and to enroll such "of their descendants born since such rolls were made.

The same distinction between "persons" and "descendants" will be noticed by a perusal of paragraphs three, five, six and eleven of section twenty-one -- both before and after paragraph nine. This distinction is made where reference is had to the final roll of the Cherokee Nation where we have "the persons whose names are found thereon, with their descendants thereafter born to them."

The proof required by the Commission is always from the ancestor. When he has established his identity as a person, his descendants are enrolled as a matter of course.

The reasons heretofore assigned for rejecting such minors as these are two: 1. They were not born in the Cherokee Nation, and 2, They have not removed to and in good faith settled in the Cherokee Nation. We dismiss the first with the showing that Marjorie Yeargain was enrolled although the record does not show that she was ever in the Nation. The second reason followed to its logical results are:

A baby must first select its place of birth and if it errs in that, it must

Leave its mother's arms and forthwith remove to and in

good faith settle in the Cherokee Nation, else its birth-right is forfeited. ~~This child should~~ These children should, at birth, have jumped from their mother's bosom, removed to the Cherokee Nation and become settlers there, taking their part in taming the wilderness, building, plowing the sod, reaping and sowing as settlers do.

Any such construction of the Act of Congress presupposes a marvelous Congressional conception of the Indian and a belief in a breed of most remarkable Indian babies.

Conclusion.

We, therefore, respectfully submit:

1. That as Mrs. Laughlin was properly enrolled in 1871 she is now entitled to enrollment because she has done no act which, under the law, works a forfeiture of her rights.

2. That her children, being minors at the time of their application, are entitled to enrollment as of course, as her descendants, and independently of her right they are entitled as the descendants of Levi C. and Stella A. Flint, their grandparents

Respectfully submitted,

Henry E. Kimball

Wesley W. Hill

Attorneys for Applicants.

CHEROKEE, D.—312

Rebecca L. Laughlin, nee Flint et al,)
) Applicants.
Cherokee-Shawnees.)

Rebecca L. Laughlin, daughter of Levi C. and Stella A. Flint, Cherokee-Shawnees, came to the Cherokee Nation prior to June 10, 1871, under 15th Art. of Treaty June 19, 1866, and agreement between Cherokees and Shawnees, approved June 9, 1869. She is enrolled on the Cherokee-Shawnee Roll of June 10, 1871, as

329, Flint R. L.

On the Cherokee Shawnee Roll made by J. W. Wallace,

261, Flint, Rebecca L., aged 25; and her children

362 Alice A. Laughlin, age 8.

On the Cherokee-Shawnee Roll made by J. G. Dickson:

465, Laughlin, Rebecca, Head, age 31.

466, Laughlin, Alice A., Dau, ,, 13

467, Laughlin Stella E. Dau., ,, 12

468, Laughlin, Howell E, Son, ,, 10

469, Laughlin, Ellen F, Dau, ,, 7

470, Laughlin, Amelia A, Dau., ,, 5

On the Cherokee Cousns Roll of 1896, Delaware District:

248, Rebecca L. Laughlin,

249, Alice A. Laughlin,

250, Hantah Laughlin,

251, Ellen E. Laughlin,

252, Permelia E. Laughlin,

253, Levi D. Laughlinm

254,503, Stella E. Laughlin.

On the "Lipe" Cherokee-Shawnee Roll made under an Act of the Cherokee National Council, approved March 30, 1896:

501, Rebecca Laughlin,

502, Alice A. Laughlin,

503, Stella E. Laughlin,

504, Harella E. Laughlin,

505, Ellen E. Laughlin,

506, Amelia A. Laughlin;

The Applicant claims the Enrollment of herself:

Rebecca L. Laughlin,	age	36;	
Alice A. Laughlin,	,,	17,	Daughter,
Stella E. Laughlin,	,,	16,	,,
Hantah E. Laughlin,	,,	14,	Son,
Ellen E. Laughlin,	,,	11,	Daughter,
Permelia A. Laughlin,	,,	9,	,,
Levi D. Laughlin,	,,	5,	Son,
Charles H. Laughlin,	,,	2,	,,
Harrola P. Laughlin,	,,	1,	,, born March 6, 1901.
Helen C. Laughlin,	,,	1,	Dau., ,, ,, ,, ,,

Rebecca L. Laughlin, daughter of Levi C. and Stella A, Flint, moved to the Cherokee Nation prior to June 10, 1871, and moved with her parents to the Quapaw Agency, and after marriage moved to Seneca, Mo., where she now resides with her husband and family.

All of the children were born in the State of Missouri.

She has a farm in the Cherokee Nation. She has never joined "any other government," than the Cherokee.

She has never drawn any allotment of annuity in any Tribe of Indians but the Cherokees.

These applicants are Cherokee-Shawnees by blood, who became citizens of the Cherokee Nation "on equal terms in every respect with native citizens."

15th ARTICLE TREATY JULY 19, 1866.

BLACKFEATHER Vs. CHEROKEE NATION, 155 U. S. 218.

They became citizens of the United States by operation of law, but their tribal and other property rights are protected:

24 Stats. at L. 390, Amended March 3, 1901.

25, " " 392.

And previous to the passage of said laws, they could not become citizens of the United States.

ELK V. WILKINS, 112, U. S. 94.

"Whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other Government, all his rights and privileges as a citizen of this Nation, shall cease."

CHEROKEE CONSTITUTION, ART. 1, Sec.2, P. 12, Cherokee Laws.

To remove out of the limits with his effects, must mean all, not part. The decisions of the Courts of this Territory hold that the improvements on the public domain are personal effects. The citizen to remove and join any other government must be of age, free and his own master, and not a wife, minor, incompetent or under control or restraint. He must have the necessary qualifications to comply with the law of naturalization of the "other government." He must join another government and remove his allegiance to the Cherokee Nation.

The temporary residence under the jurisdiction of the "other Government" does not make him a citizen thereof, any more than the residence of a Creek Indian in the Cherokee Nation, makes him a citizen of the Cherokee Nation, and entitled him to participate in the final allotment f of lands and distribution of the common property of the Nation.

These applicants have never joined "any other government," nor have they ever received any payments or allotmtnes of lands among any other tribe or Nation.

"He must not only remove his effects, but he must become a citizen of another government."

ASSIST. ATTORNEY GEN'L. LITTLE, 8th Annual Report.

Are we to judge by the practice in the Cherokee Nation? Then the evidence of D. W. Bushyhead, ex-Principal Chief of the Cherokee Nation, before the Clifton Commission, Freedman Enrollment 1896, shows that he went to California in 1849, leaving effects in the Cherokee Nation, a slave, horse and saddle. Voted and held office in California, and returned after 19 years absence, and found slave freed, horse dead, and saddle lost. He was appointed and served two terms as Treasurer of the Cherokee Nation, and was elected and served as Principal Chief, and never was re-admitted.

These applicants were under restraint, and could not act of their own free will.

That clause of the Cherokee Constitution nev r intended to destroy the happiness of the marriage relationship by compelling the wife to separate and live apart from her husband and children and to deny herself of his support, under the penalty of k the forfeiture of her tribal citizenship, and property, purchased by

her prorata share of Shawnee funds paid to the Cherokee Nation.

The removal of a minor by guardian or parents does not de-citizenize the minor until he becomes of age and makes his choice.

Indian Children born in Arkansas or Missouri do not become citizens of these states by reason of their Indian allegiance but their parents must be citizens of the United States to be a bona fide citizen of either state. The act of temporary residense of their parents did not constitute them bona fide citizens of Missouri, for their parents were not citizens of Missouri the United States and could not be made a citizen thereof unless by some special act of Congress or a treaty stipulation. The authorities on this question are undisputed.

Even after their parents became citizens of the United States by reason of the act of Congress, as amended March 30, 1901, all their tribal property and rights were preserved for them.

Indian children born in the Cherokee Nation do not become citizens of the Cherokee Nation.

By the laws of the white man, the sins and omissions of the parents are visited upon the heads of their children. Strange to say, but by Indian law, more particularly the Cherokee laws, are always in favor of their children. They abound with "Provided, that nothing in this Act shall bar minors and orphans." "The descendants of Cherokee men by all free women, whose parents may have been living together as man and wife," p. 14, Cherokee Laws, and Sec. 692, p. 346.

Unlawful marriages are absolutely void, but, "Provided that the issue from such marriage shall nevertheless be legitimate; provided, also, that when a man having by a woman one or more

children , shall afterwards inter-marry with such woman, such child or children, if recognized by him, or proven to be his, shall thereby be ~~li~~ legitimate," or page 267, in regard to wills, "saving to minors and persons 'non-compos mentes' one year to contest such will, after the removal of their disabilities."

The Indian loves and protects his children and their rights, and no better example can be shown than by the reading of the exhibit, being an authenticated copy of the decision by the Tahlequah Circuit Court, Cherokee Nation, in case of Johnson vs. Harris, Principal Chief.

These applicants, in view of their rights, and not for the purpose of denying rights to others, call your attention to the fact that almost all of the Cherokees born prior to the Civil War, did remove with their effects out of this Nation, and that large numbers of the births during 1861, to and including 1880, took place in the neighboring states, territories or tribes out of the jurisdiction and "limits" of the Cherokee Nation; and that the records of the Cherokee National Council fail to show their re-admission. And ~~the~~ their sole claim now rests upon the authority of Congress in making the "authenticated Roll" as evidence of their Cherokee citizenship, but these applicants do not ask or pray that you strike them off the final Roll by reason of their non-residence or misfortune of birth; or the disregard of the National Council in not re-admitting them to citizenship, but pray that the reasons and facts given will aid them in their petition for enrollment.

Are not these questions of Cherokee Constitution and law seemingly out of place, in face of this section of the Curtis Act?:

"Sec. 28. That on and after the passage of this Act the laws of the various tribes or Nations of Indians shall not be

enforced at law or in equity by the Courts of the United States in the Indian Territory."

The Commission acting in the capacity of a Court for the enrollment and as judges of the rights of the applicants, cannot enforce the Cherokee Constitution and laws against the rights of theses applicants, whose claims rests on Art. 15, Treaty of July 19, 1866.

" No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."----Curtis Act.

This applies to State, Territorial and Tribal boundaries, and makes absolute, without previous notice, the confiscation of the property and rights of all Indians who were absent prior to June 28, 1898.

"No person shall be deprived of life, liberty or property without due process of law."--Fifth Amendment to Constitution.

"This Article is a restraint upon the legislative as well as the executive and judicial branches of the Government; and cannot be so construed as to leave Congress free to make any process "due process of law."

"These words generally imply and include regular allegations, opportunity to answer, and trial, according to some settled course of proceedings."

MOWREY vs HOBOKEN L. & I. Co.. 18 Howard, 296.

The striking off of the names of these applicants from the Rolls <u>forever</u> prevents them from participation in the

final allotment of lands and other common property of the Cherokee Nation, and confiscates their present holdings, without compensation or "due process of law."

These Indian applicants became citizens of the United States by virtue of the Acts of Congress.

24 Stats. at L. 390, Amended March 3, 1901.--"Every Indian in the Indian Territory is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges and immunities of such citizen, whether said Indian has been or not, or otherwise member of any Tribe of Indians within the Territorial limits of the United States, without in any manner impairing or otherwise affecting the rights of any such Indian to Tribal or other property."

By the law quoted, Congress (by implication) repealed that portion of the Curtis act: "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship." These applicants were granted "all the rights, privileges and immunities" of citizenship of the United States.

There is no law compelling citizens of the United States to remove to and settle in good faith in the State, Territory or Nation in which he claims citizenship.

All citizens of the United States were privileged on June 28, 1898, and at all times before and since, to move to and reside in any State or Territory, without any forfeiture of any of their rights or property.

If that part of the Curtis law is now in force, then these applicants, citizens of the United States, are denied

some of the rights, privileges and immunities "that they should enjoy and are entitled to."

The Tribal rights of ~~these~~ this applicant~~s~~ are protected by said Amended Act, "without in any manner imparing or otherwise affecting the rights~~s~~ of any such Indian to Tribal or other property."

This Amended Act repealed the destructive and unconstitutional clause of the Curtis Act quoted, or otherwise these applicants are denied their rights to "tribal or other property" without "due process of law," contrary to the Act making them citizens.

S. Alderson
Atty for Applicants
R. L. Laughlin Ethel

(Copy)

Exhibit G.

At the regular term of the Circuit Court of Tahlequah District, C. N., Sept. 5th, 1895, in the case of J. B. Johnson et al, vs C. J. Harris, Principal Chief, etc;

That parties having submitted a statement of the facts in the case to which both agree, for a decision by the Court. Upon examination of the statement of facts the Court finds that it is alleged and admitted that plaintiffs are of Cherokee blood, and at one time owned an improvement and lived on it in Ooweesoo-woo District, this Nation, and were citizens thereof; and in 1884 removed out of the limits of this Nation into the Osage Nation; and it is further admitted that the wife and children are part Osage by blood, and as such that they participated in the per capita payments of money made among the Osage people; and that J. B. Johnson himself drew money at the "strip" payment among the Cherokee people. It is evident to the Court that the wife, being of elective age has preferred being a citizen of the Osage Nation to that of being a citizen of the Cherokee Nation, and in the exercise of that right of choice she has identified herself with the Osage people, and become a recognized citizen thereof, thereby has forfeited all rights of citizenship in this Nation. As the Court holds that the wife in this case being of Cherokee and Osage blood both, cannot hold and exercise the rights of citizenship in the Cherokee and Osage Nation both at the same time. She must identify herself with one or the other. As to the rights of such children as J. B. and Julia M. Johnson might have had born to them prior to their removal to the Osage Nation, being natural born

citizens of this Nation by virtue of their Cherokee blood, remain unimpaired, they being minors and their rights of citizenship in this Nation being vested by the Constitutions and laws of this Nation, the mere fact ~~that~~ of their mother having taken them with here when she went to the Osage Nation does not and cannot divest them of their rights in the Cherokee Nation. There is no power or authority that can divest a minor citizen of this Nation of blood of his rights of citizenship. It is therefore the opinion of the Court that such children of J. B. Johnson and wife as they might have taken with them when they removed to the Osage Nation and are now minors, have not forfeited their rights in this Nation; that forfeiture of citizenship in this case must be done by a person who is capable of electing as to which of these two Nations they prefer to live in. It must be done voluntarily; and when the children in question reach their majority they will then be competent to elect as to which of these two Nations they prefer to live in; then if they elect to live in the Osage Nation they will forfeit their rights here; and as to the rights of such children as J.P. and Julia M. Johnson might have had born to them since the mother has been recognized as a citizen of the Osage Nation the Court holds are wholly identical with those of the mother. They being of Osage blood and born in the Osage Nation are natural born citizens thereof by virtue of their Osage blood and have no rights in the Cherokee Nation whatever; and judgment is hereby ordered accordingly.

H. L. LANDRUM,

Judge Presiding.

R O L L S.

Under the same Act of Congress John W. Wallace made the Rolls of the Shawnees, Delawares and Freedmen, and the Court of Claims recognized the validity of these rolls.

30 Ct. of Cl., 180.

The Cherokee National Council passed an Act entitled, "An Act to Equalize the per capita shares of the Shawnee citizens of the Cherokee Nation, with the shares paid the Cherokees by blood," approved March 30, 1896. The Cherokee Nation by the Principal Chief appointed William Carey, the Shawnee Business Committee appointed Jacob Guthrie, and the Secretary of the Interior appointed James G. Dickson and the commissioned examined each Shawnee applicant and made the roll, throwing off 40 persons, and the roll so made is known as the Lipe Roll.

The Roll of Cherokee-Shawnees, known as the Dickson Roll was made under the decree of the Court of claims in the case of Johnson Blackfeather, Principal Chief of the Shawnee Indians, vs The Cherokee Nation, and the United States.

The Register Roll of June 10, 1871, was made pursuant to the agreement of June 7, 1869.

The applicants are on these rolls and have been recognized by the Cherokee authorities as ~~Shawnee~~ Cherokee-Shawnees, entitled to participate in the prorata payments of money due the Cherokee Nation, and these acknowledgments have a binding force and by these rolls they were acknowledged as Cherokees regardless of residence and place of birth, and the Cherokee Nation is estopped from disputing their claims, except in the case of fraud.

AN ACT TO EQUALIZE THE PER CAPITA SHARES OF THE ~~SEVERE~~ SHAWNEE CITIZENS OF THE CHEROKEE NATION WITH THE SHARES PAID THE CHEROKEES BY BLOOD.

-----ooOoo---

BE IT ENACTED BY THE NATIONAL COUNCIL, That there be (and) is hereby appropriated out of the first instalment of the money derived from the sale of the Cherokee Outlet set aside by the Act of Congress approved March 3, 1893, to pay the claims of the Shawnees, Delawares and Freedmen citizens of the Cherokee Nation, the sum of $78,538 to be paid the Shawnees citizens of the Cherokee Nation whose names shall appear upon the roll made by the Secretary of the Interior under the terms of the decree entered in the case of Johnson Blackfeather, the Principal Chief of the Shawnee Tribe of Indians vs The Cherokee Nation, et al, in the Court of Claims of the United States. Provided that the said Shawnee citizens of the Cherokee Nation shall, before this provision becomes effective, through their authorized agent or agents, first enter into a written agreement with the Principal Chief of the Cherokee Nation, requesting the Secretary of the Interior to prepare said roll of Shawnee citizens by a commission of three, one appointed by the Principal Chief of the Cherokee Nation, one by the Secretary of the Interior, and one by the Business Committee. The said roll to contain the names only of the Shawnee Tribe of Indians and their descendants as became citizens of the Cherokee Nation by operation of the agreement between the Cherokee Nation and the Shawnee Indians, dated the 9th day of June, 1869, and who were living on May 5th, 1894, or by the operation of special Acts of the National Council duly complied with by the parties admitted and were living at said date. Provided, however, that the said roll herein author-

4. That all acts inconsistent with this Act are hereby repealed.

Approved March 30th, 1896.

.....

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah, 9th, 1896.

(S E A L)

It is hereby Certified that the foregoing is a Correct Copy of the Original.

Witness, Seal of the N Cherokee Nation.

(Signed) JOHN L. ADAIR,
Executive Secretary.

Chancery D 312

Rebecca L Laughlin Et al

J Sleeper
atty

Cherokee B 312

H. A. L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Rebecca L. Laughlin for the enrollment of herself and seven minor children, Alice A., Stella E., Havilah, Ellen E., Pamela A., Levi D., and Charles H. Laughlin as citizens by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 17, 1900, the applicant, Rebecca L. Laughlin, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her seven minor children, Alice A., Stella E., Havilah, Ellen E., Pamela A., Levi D., and Charles H. Laughlin as citizens by blood of the Cherokee Nation. Thereafter, on February 24, 1902, at Muskogee, Indian Territory, further evidence in the matter of this application was heard and the case was submitted to the Commission for final consideration and ordered closed.

The evidence in this case shows that the applicant, Rebecca L. Laughlin, 36 years of age at the time of her application, has not resided in the Cherokee Nation since 1874. She was married on March 15, 1882, to Charles B. Laughlin a citizen, first of Kansas and later of Missouri.

The name of the applicant, Rebecca L. Laughlin, does not appear upon the Cherokee authenticated tribal roll of 1880, but she is identified on the Register of Shawnees who removed to the Cherokee Nation prior to June 10, 1871, as "R. L. Flint", her maiden name. The names of the applicant, Rebecca L. Laughlin, and her daughter, Alice A. Laughlin, appear upon the Wallace Roll of Shawnee-Cherokees, on the Dickson Roll of Shawnee-Cherokees, on the Cherokee-Shawnee Pay roll of 1896, and on the Cherokee Census roll of 1896. The

children of the applicant, Havilah, Ellen E., and Pamela A. Laughlin, are identified on the Dickson Roll of Shawnee-Cherokees, on the Cherokee Shawnee Pay Roll of 1896, and on the Cherokee Census roll of 1896. The daughter, Stella E., is identified on the Dickson Roll of Shawnee Cherokees and on the Cherokee-Shawnee Pay roll of 1896. The son, Levi D. Laughlin, is identified on the Cherokee Census roll of 1896. Three children, Charles H. Laughlin, born July 6, 1898, Harold P. Laughlin, born March 6, 1901, and Helen C. Laughlin, born March 6, 1901, have been born since the preparation of any of the above mentioned rolls and proper proof of their births has been furnished this Commission. The two last mentioned children were born subsequent to the date of this application and are now included in its consideration. None of the children of the applicant, Rebecca L. Laughlin, were born in the Cherokee Nation nor had the applicant, or any of her children, removed to and in good faith settled in the Cherokee Nation prior to the enactment of the Act of Congress of June 28, 1898.

Paragraph 9, of Section 21 of the Act of Congress of June 28, 1898 (30 Stats., 495) provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is therefore the opinion of this Commission that Rebecca L. Laughlin, Alice A. Laughlin, Stella E. Laughlin, Havilah Laughlin, Ellen E. Laughlin, Pamela A. Laughlin, Levi D. Laughlin, Charles H. Laughlin, Harold P. Laughlin and Helen C. Laughlin, are not lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be refused and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Acting Chairman.

Commissioner.

C. R. Breckinridge.
Commissioner.

Dated at Muskogee, I.T.
this MAY 27 1902

IN THE DEPARTMENT OF THE INTERIOR.

----ooo----

In re)
Application of Rebecca L. :
Laughlin, et al., for enroll-)
ment as citizens by blood of :
the Cherokee Nation.)

----ooo----

MOTION FOR REVIEW.

And now come the applicants by their attorneys and move that the decision of the Secretary of the Interior herein be set aside and a new hearing granted and had for the reasons set forth in the brief hereto attached.

Harry Strunk
Hugh Harry White

Attorneys for Applicants.

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re Application of REBECCA L. LAUGHLIN, ET AL., for Enrollment as Citizens by Blood of the Cherokee Nation.

----oOo----

BRIEF FOR APPLICANTS

IN SUPPORT OF MOTION FOR REVIEW.

No time has been fixed by the Department when Mrs. Laughlin ceased to be a citizen of the Cherokee Nation. As all of her children were minors at the time of the application and on September 1, 1902, each of them is entitled to enrollment who was born at a time when Mrs. Laughlin was a citizen of the Cherokee Nation, under the opinions of the Assistant Attorney-General in the Stonewall J. Rogers and Julia A. Moore cases. This phase of the case has not been considered by the Department, for which reason, and for the other reasons hereinafter mentioned, I ask a reconsideration.

There is no doubt that Mrs. Laughlin became a citizen of the Cherokee Nation in 1871, when she was enrolled on the Shawnee Registration roll made under the Treaty of June 9, 1866. She did not lose her citizenship by the removal of her father to the Quapaw Agency (Assistant Attorney-General's Opinion in the Levi C. Flint case), nor so long as she was a minor (Assistant Attorney-General's Opinion in the Gertrude F. Flint case). She was a minor until she became 21 years of age (Assistant Attorney-General's Opinion, in the Ora L. Camp case), and she was, therefore, unquestionably a citizen of the Cherokee Nation until March 15, 1885, on which day she became 21 years of age (Testimony of Charles B. Laughlin).

During this period (between 1871 and March 15, 1885) two of her children were born, namely, Alice A., born December 21, 1882, and Stella E., born August 6, 1884. It is absolutely certain, therefore, that these two children, Alice A. Laughlin and

Stella E. Laughlin, are entitled to enrollment as Cherokee citizens.

The next child, Havilah Laughlin, was born June 18, 1886, and as the Department held in the Ora L. Camp case that after becoming of age Mrs. Laughlin was allowed a reasonable time before her citizenship was lost, we insist that he is also entitled to enrollment.

I next show that Mrs. Laughlin never lost her citizenship in the Cherokee Nation. The Department has held that she did lose her rights as a Cherokee citizen under the provisions of Section 2 of Article I of the Cherokee constitution by removal from the Nation with her effects, and bases its decision upon the opinions of the Assistant Attorney-General in the cases of Levi C. Flint and Clara A. Ward. The provision of the constitution says that Cherokees may forfeit their citizenship by doing three things, namely, removing, taking their effects, and becoming a citizen of another government. The opinion of the Assistant Attorney-General in the Ward case says that a removal with effects is sufficient, even if the citizen does not become a citizen of another government; and if this opinion stood alone the Department would be justified, perhaps, in following it; but the Assistant Attorney-General has in the Yeargain case and in the John R. Trott case held just the reverse. In the Yeargain case he said, as indeed the constitution of the Cherokee Nation says as plainly as it can possibly be put in English:

> "There are three elements clearly defined which must concur to effect forfeiture of nationality, or complete expatriation, viz: removal of the person, coupled with the removal of all effects and property, and acquisition of another nationality."

In the John R. Trott case the Assistant Attorney-General said:

> "It is not shown that Mr. Trott did remove his effects and that he became a citizen of another government. The evidence fails to establish either one of the two necessary propositions x x x The right of citizenship in the Cherokee Nation is valuable, and aside from its political and purely national aspect, it is contrary to established rules for statutory construction to enlarge the meaning of an act beyond its terms to effect a forfeiture of rights.
>
> It is the right of all Cherokees born to the allegiance of the Cherokee Nation to remain Cherokees. It is a canon

of statutory construction that statutes in derogation of common right must be construed strictly. -- Black's Interpretation of Laws, Paragraph 115, Ed. 1896; Southerland on Statutory Construction, Sec. 336, Ed. 1891. x x x It is not permissible to wander from established rules for statutory construction in pursuit of a supposed intent, neither expressed in the act nor in similar acts upon the same subject, merely to work a forfeiture of rights not forfeited by the letter of the act."

Since, therefore, the opinions of the Assistant Attorney-General are so completely at variance, I ask consideration of other authorities and of my motion for review in the Ward case, in which I have clearly pointed out to the Assistant Attorney-General the inconsistencies above referred to.

Since it is necessary, in order to adjudicate the rights of Mrs. Laughlin's children, to find when she lost her citizenship it is pertinent for us to inquire at the outset what she has done which could possibly work that forfeiture. She married a white man March 13, 1862; lived with him at Peoria Agency in the Indian Territory until 1864, when she removed with him to Seneca, Missouri, nine miles from the Cherokee line, where she continued to live with her husband as his wife. This is all that she has done, and unless those few things have forfeited her Cherokee rights, she is still a citizen. We insist that it was necessary for her to become a citizen of another government in order to forfeit her rights, for any construction of the Cherokee constitution which eliminates that requirement amounts to the absolute cancellation from the constitution of the words "and become a citizen of another government."

Such construction is not permissible for the reasons that this provision of the constitution declares a forfeiture, it is plain and unambiguous, there is nothing else in the constitution which permits any such construction, and the words were put in the constitution in 1839 and were allowed to remain there when the Cherokee Nation amended its constitution in relation to citizenship in 1867, and that it is improper to consider any legislation of the Cherokee Nation on the subject, for the reason that any legislation tending to eliminate the requirement would be unconstitutional.

"If the language is clear and admits but one meaning, the legislature should be intended to mean what it has plainly expressed, and there is no room for construction." -- Am. & Eng. Ency. Law, 2d Ed., Vol. 26, p. 598.

"If the language be clear it is conclusive. There can be no construction where there is nothing to construe. The words must not be narrowed to the exclusion of what the legislature intended to embrace; but that intention must be gathered from the words, and they must be such as to leave no room for a reasonable doubt upon the subject."-- U. S. vs. Hartwell, 6 Wall., 396.

"The first and cardinal rule in the interpretation of a statute is to look to the statute itself, the meaning, or scope and the object of the statute; and if, upon the face of it, you can gather plainly what was the intention of the legislature, those incidental rules which are mere aids to be invoked where the meaning is clouded, are not to be regarded." -- Hewitt vs. Telegraph Co., 4 Mackey, D. C., 434.

"The language of this clause is plain and unambiguous. There is nothing in the context, rightly considered, which qualifies or affects it. There is, we think, no room for construction x x x Were we to adopt the construction claimed by the plaintiff's counsel, instead of adjudicating we should legislate. That we have no power to do. Our function is to execute the law, not to make it." -- Doe vs. Considine, 6 Wall., 480.

"Although the spirit of an instrument, especially of a constitution, is to be respected not less than its letter, yet the spirit is to be collected chiefly from its words. It would be dangerous in the extreme to infer from extrinsic circumstances, that a case for which the words of an instrument expressly provide, shall be exempted from its operation. x x x But if, in any case, the plain meaning of a provision, not contradicted by any other provision in the same instrument, is to be disregarded, because we believe the framers of that instrument could not intend what they say, it must be one in which the absurdity and injustice of applying the provision to the case, would be so monstrous that all mankind would, without hesitation, unite in rejecting the application."-- Sturges vs. Crowninshield, 4 Wheat., 202.

Thousands of cases in support of the above propositions may be cited. In fact, there are thousands of such cases collected in the Am. & Eng. Ency, Law, 2d Ed., Vol. 26, p. 598., et seq.

The only other government of which she is supposed to have become a member is the United States. In the absence of authority from Congress she could not become a citizen of the United States.

Elk vs. Wilkins, 112 U. S., 94.
Ex Parte Reynolds, 5 Dillon, 398.

The only acts of Congress relating to the subject are those of February 8, 1887, (24 Stat., 388, 390) as amended by the

Act of March 3, 1901, (31 Stat., 1447); August 9, 1888, (25 Stat., 392); and section 43 of the Act approved May 2, 1890, (26 Stat., 89), in all of which statutes it is expressly provided that nothing therein contained shall in any way affect the tribal rights of property of the person thereby becoming a citizen of the United States.

By her marriage to Mr. Laughlin she did not become a citizen of the United States, as there was no act of Congress in force at that time permitting her to become a citizen, and the act of marriage did not thus operate.

Pequignot vs. City of Detroit, 16 Fed. Rep., 211, and cases cited, including
Shanks vs. Dupont, 3 Peters, 242.
15 Op. Atty. Gen. 599.
10 Op. Atty. Gen., 321.

The language of Attorney-General Bates, as found in 10 Op. Atty. Gen., 323, is as follows:

> "Still, they were subject to the power of Mr. Preto, the husband and father, for, by the consentaneous law of all Christendom, the husband and father is the head and ruler of the house. His domicil, (unless for some special reason to the contrary,) is the domicil of his wife and children; and that, too, without any reference to the different, possibly conflicting, political relations of the parties. The wife, in this case, performed a simple duty in going willingly to her husband's domicil in a foreign country, and remaining with him there, as long as he had a domicil on earth. And, in doing so, she did only obey the great law of family, which is as old as society itself, and is recognized and respected all around the world."

The act of Congress under which she became a citizen of the United States by virtue of her marriage with Mr. Laughlin was passed August 9, 1888, and it expressly reserved to her her tribal rights of property.

It is conclusively shown, therefore, that she did not become a citizen of the United States in any such way as to deprive her of tribal rights of property -- that she could not have done so had she so desired.

If Mrs. Laughlin was "recognized by the tribe" at the passage of the Indian appropriation act of June 7, 1897, then all of her children "shall have the same rights and privileges to the property of the tribe x x x as any other member of the tribe,"

and it is necessary for us to see what was the status of Mrs. Laughlin on June 7, 1897. We refer to the next to the last paragraph of Section 1, Act of Congress approved June 7, 1897, (30 Stat., 90), which is as follows:

> "That all children born of a marriage heretofore solemnized between a white man and an Indian woman by blood and not by adoption, where said Indian woman is at this time, or was at the time of her death, recognized by the tribe shall have the same rights and privileges to the property of the tribe to which the mother belongs, or belonged at the time of her death, by blood, as any other member of the tribe, and no prior Act of Congress shall be construed as to debar such child of such right."

The last opportunity the nation had of recognizing this applicant by matter of record was in the making of the various rolls of citizens in the year 1896. The record shows that Mrs. Laughlin and her children's names appear upon the following rolls prepared by the Nation in that year: Wallace Roll, Dickson Roll of Shawnee-Cherokees, and Cherokee-Shawnee Pay Roll, and the 1896 Cherokee Census Roll. Considerable sums of money were paid to them in the latter part of the year 1896 or in 1897. They were allowed without protest by the Nation to occupy lands and to own improvements upon the public domain of the Cherokee Nation, and in fact were as fully recognized as any woman and children could possibly have been recognized by the Nation and accorded every right that any such persons could have been accorded. We believe that it is self-evident that this "Indian woman is at this time" (June 7, 1897) "recognized by the tribe" and that all the children born of her marriage theretofore solemnized between her husband, a white man, and herself, an Indian woman by blood, "shall have the same rights and privileges to the property of the tribe to which the mother belongs, June 7, 1897, by blood, as any other member of the tribe."

Recalling now that Mrs. Laughlin was undoubtedly a citizen of the Cherokee Nation in 1871, and was without question a citizen so long as she continued to be a minor, and for a reasonable time thereafter, we invite attention to the facts in her case as bearing upon her intent. It must be recalled that she was married to a white man in the Indian Territory on her eighteenth birthday while still undoubtedly a citizen, and the only

thing she did thereafter was to continue to live with him in a home provided by him and at a place selected by him, and that during all of the time of her absence from the Nation she was under the legal disability of coverture to select a home for herself. She was without any sole and separate estate until the Cherokee Nation paid to her and to her children their shares of the strip payment which she immediately invested in improvements upon the public domain of the Nation. This fact in the Assistant Attorney-General's opinion in the Gertrude F. Flint case was made prominent as tending to show her contribution toward the material advancement of the Cherokee Nation while still a minor, and the force of the reasoning in the Gertrude F. Flint case applies equally as strong in Mrs. Laughlin's case, as she did the same thing while under the legal disability of coverture, which is practically the same disability as that of minority. It is peculiarly analogous in such a case as this, where the disability of marriage, no less than the disability of minority, prevents the legal exercise of the will of the person as to the selection of the home. In fact, there is absolutely no difference in this regard in the two legal disabilities of minority and coverture. The force of the reasoning in the Flint case is also particularly strong in Mrs. Laughlin's case, because there never was a day in her life when she was a free moral agent in this matter of selecting her domicile. Before her legal disability of infancy had passed, she came under the legal disability of coverture, which continued until after September 1, 1902, and there has never been a minute of her life when she could lawfully return to the Cherokee Nation. The only time she was ever afforded an opportunity to show her intent to retain her citizenship in the Cherokee Nation was when she received as her sole and separate estate the Cherokee strip payment, and this she immediately applied, in the language of the Assistant Attorney-General in the Gertrude F. Flint case, in identifying "herself and her interests with the Cherokee people, as she has by the holding and possession of the rights to improvements of lands" purchased by her.

We, therefore, respectfully submit:

1. That the three older children are entitled to enrollment irrespective of the present rights of their mother, for the reason that they were born while their mother was unquestionably a citizen of the Cherokee Nation, because they were still minors on September 1, 1902.

2. That Mrs. Laughlin and all of her children are entitled to enrollment for the reasons:

(a) That she did not lose her Cherokee citizenship under the constitution, because she did not become a citizen of another government.

(b) That on June 7, 1897, the were recognized citizens of the Cherokee Nation, owned valuable improvements on its public domain, were enrolled upon four of its tribal rolls, and had just been paid large sums of money by the Nation as citizens thereof, which property they continue to hold in the Cherokee Nation and are entitled to enrollment under the Act of Congress approved June 7, 1897.

(c) That because Mrs. Laughlin at the very first legal opportunity contributed all of her means to the material advancement of the Nation and did everything within her power to continue her relationship with the Nation, she is entitled to enrollment with her children.

(d) That in order to ascertain which of her minor children are entitled to enrollment it is necessary for the Department to find the time when Mrs. Laughlin forfeited her rights of citizenship, and that this from the very nature of the case is an absolute impossibility. The necessity for fixing this time is shown by the following dates of the birth of her children: Alice A., born December 21, 1882; Stella E., born August 6,1884; Havilah, born June 18, 1886; Ellen E., born April 4, 1889; Pamela A., born March 2, 1891; Levi D., born February 21, 1895; Charles H., born July 8, 1898; Harold F. and Helen C., born March 6, 1901.

Respectfully submitted,

Harry Strunk

Harry Strunk

Attorneys for Applicants.

Cherokee B 312.
(R 677)
GPT

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Rebecca L. Laughlin for the enrollment of herself and her minor children, Alice A., Stella E., Havilah, Ellen E., Pamela A., Levi D., Charles H., Harold P. and Helen C. Laughlin, as citizens of the Cherokee Nation of Shawnee blood.

D E C I S I O N.

The record in this case shows that on September 17, 1900, Rebecca L. Laughlin appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of herself and her minor children, Alice A., Stella E., Havilah, Ellen E., Pamela A., Levi D. and Charles H. Laughlin, as citizens of the Cherokee Nation of Shawnee blood. Subsequent to the date of said application, birth affidavits as to her minor children, Harold P. and Helen C. Laughlin, were filed with the Commission and the same are now made a part of the record herein. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 24, 1902, and at Tahlequah, Indian Territory, May 25, 1903.

The evidence shows that the said Rebecca L. Laughlin is a daughter of one, Levi C. Flint; that she is identified by her maiden name, R. L. Flint, on the register of Shawnee Indians who removed to and located in the Cherokee Nation within two years from June 9, 1869, in accordance with an agreement made by and between the Shawnees and the Cherokees, approved on said date; and that all the other applicants are her descendants, born since 1880.

The said Rebecca L. Laughlin and her daughter, Alice A. Laughlin, are identified on the Wallace Roll of Shawnee-Cherokees, on the Dickson Roll of Shawnee-Cherokees, on the Cherokee-Shawnee pay roll of 1896 and on the Cherokee census roll of 1896. The applicants, Havilah, Ellen E. and Pamela A. Laughlin are identified on the Dickson Roll of Shawnee-Cherokees, on the Cherokee-Shawnee pay roll of 1896 and on the Cherokee census roll of 1896. The applicant, Stella E. Laughlin, is identified on the Dickson Roll of Shawnee-Cherokees and on the Cherokee-Shawnee pay roll of 1896. The applicant Levi D. Laughlin, is identified on the Cherokee census roll of 1896. The other applicants, Charles H., Harold P. and Helen C. Laughlin are too young to appear on any of the Cherokee tribal rolls, but are identified by birth affidavits made a part of the record herein.

The evidence further shows that said Rebecca L. Laughlin was thirty-six years of age at the date of this application, and that she resided in the Cherokee Nation from about 1871 to 1874. From that time until about 1882 she resided with her father, Levi C. Flint, at the Quapaw Agency in Indian Territory. In 1882 she was married to one Charles P. Laughlin, and since 1884 she and her husband have resided in Missouri. In 1892 the said Charles P. Laughlin purchased for the applicants herein an interest in an improved farm in the Cherokee Nation, and they have since maintained possession and control of the same. It is considered that the residence of the said minor applicants has been the same as that of their mother.

It is, therefore, the opinion of this Commission, following the decision of the Department in the cases of Joseph D. Vengrain et al. (I.T.D. 2900-1903), and Clement C. Clarke et al. (I.T.D. 1370-1903), that the said Rebecca L. Laughlin, Alice A. Laughlin, Stella B. Laughlin, Mavilah Laughlin, Allen R. Laughlin, Pamela A. Laughlin, Levi D. Laughlin, Charles H. Laughlin, Harold F. Laughlin and Helen C. Laughlin, should be enrolled as citizens of the Cherokee Nation of Shawnee blood, in accordance with the provisions of the Act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,
this OCT 9 1907

Cherokee D. 312.

Department of the Interior,

Commission to the Five Civilized Tribes.

Tahlequah I. T. October 14th 1905.

In the Matter of the application for the enrollment of Rebecca L. Laughlin as citizens of the Cherokee Nation.

Comes now the Cherokee Nation and protests against the decision of the Commission rendered in the above entitled case and requests that the record be transmitted to the Honorable Secretary of the Interior for review.

Protest and Argument.

The testimony in this case shows that the applicant is a daughter of Levi C. Flint; that they came to the Cherokee nationand that their names appear upon the Shawnee register of 1871 but the testimony does not show as stated in the judgment that the applicant "Resided in the Cherokee Nation for several years after removal thereto with the Shawnees in 1871" but upon the other hand the testimony shows that herfather left the Cherokee nation in 1874 or 1875 and has been a continuous non resident since that time. Neither does the testimony show as the judgment states that she has owned personal property in the Cherokee Nation during her residence in the state of Missouri. There is no warrant whatever in the testimony for these findings in the judgment; upon the other hand the testimony is quite clear that the small claim which the said Levi C. Flint the father of the applicant had upon the public domain in the Cherokee nation was abandoned and for years no ~~xxxxxxxxxxxx~~ member of the family had any improvements upon the public domain in the Cherokee Nation or was the owner of any personal property within the limits of the Cherokee Nation but all of them with all of their families lived in the State of Missouri where they were residents; where they exercised the right of citizenship.

Upon a rehearing of his case before the Commission Levi C. Flint, who testified in his own behalf and whose testimony was made a part of the recordin this case stated that he had no property within the limits of the Cherokee nation during a long number of years; that for more than twenty years he and the applicant were continuous residents of the state of Missouri where he had voted at all times during both congressional and presidential elections and he further stated that he ~~xxx~~ had not been permitted to vote in the Cherokee Nation because the Cherokee authorities told him that he was not a citizen and not entitled to vote.

We do not see any comparison whatever between these cases and the Year gain cases as stated by the Commission. In the Yeargain cases these boys were upon every roll made by the Cherokees; were born within the limits of the Cherokee nation; were Cherokeeby blood; they owned farms and personal property within the limits of the Cherokee Nation after reaching their majority; they voted at every Cherokee election; held various offices in the Cherokee nation; had always been recognized as citizens of the Cherokee nation and were when they made applications for enrollment as citizens of the Cherokee nation residing within a stones threw across from the Cherokee line at a town where all Cherokees for miles around went to do their trading; they were in a general mercantile business at South west City Mo and at Grove I. T.. Upon the other hand in the case at bar the applicant and her father have been disconnected from the Cherokee nation or tribe for about thirty years. Neither applicants husband or her father have voted in the Cherokee nation during that period and have never in any way been identified with Cherokee affais They ownedno farm upon the public domain of the Cherokee Nation except one that was abandoned and owned no personal property in the Cherokee nation., and we do not believe they are entitled to be enrolled.

Respectfully,

W W Hastings JC

Atty Cherokee nation.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cher. D-512.

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes in the matter of the application for the enrollment of Rebecca L. Laughlin, Alice A. Laughlin, Stella E. Laughlin, Havilah Laughlin, Ellen E. Laughlin, Pamela A. Laughlin, Levi D. Laughlin, Charles E. Laughlin, Harold F. Laughlin and Helen C. Laughlin, as citizens of the Cherokee Nation of Shawnee blood.

This decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Very respectfully,

Acting Chairman.

Encl. C-4.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 312.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, October 6, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date May 27, 1902, rejecting the application of Rebecca L. Laughlin for the enrollment of herself and her nine minor children, Alice A., Stella E., Havilah, Ellen E., Pamela A., Levi D., Charles H., Harold P. and Helen C. Laughlin, as citizens of the Cherokee Nation by Shawnee blood, was affirmed by the Secretary of the Interior on September 13, 1902.

Respectfully,

Acting Chairman.

M&G

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D-312
(R 677).

Muskogee, Indian Territory, October 10, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated October 9, 1903, granting the application of Rebecca L. Laughlin for the enrollment of herself and her minor children, Alice A., Stella E., Havilah, Ellen E., Pamela A., Levi D., Charles H., Harold P. and Helen C. Laughlin, as citizens of the Cherokee Nation of Shawnee blood.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-78

(COPY)

J.R.W.
W.C.P.
S.V.P.

DEPARTMENT OF THE INTERIOR,
Office of the Assistant Attorney-General.
WASHINGTON,

I.T.D.
13414-1905.

September 24, 1906.

The Secretary of the Interior.

Sir:

I received by reference of March 13, 1906, the record in application of Rebecca L. Laughlin for enrolment of herself and children as citizens of the Cherokee Nation, of Shawnee blood, decided adversely to all the applicants by the Department, April 15, 1905, for review of which decision counsel for the applicants has filed a motion for review.

Rebecca L. Laughlin, whose maiden name was Flint, was born March 15, 1864, and with her parents is borne on the register of Shawnees who were affiliated into the Cherokee Nation under the Cherokee-Shawnee agreement of June 9, 1869 (Constitution and Laws, Cherokee Nation, 1892, p. 403), pursuant to Article XVI of the treaty of July 19, 1869 (14 Stat., 799). After living in the nation over three years, her father Levi C. Flint was employed as blacksmith at Quapaw Agency, taking with him his family, but leaving property in the nation, and intending thereto to return. In 1879 or 1880 he left government service and went to Seneca, Missouri, where she married March 15, 1882, Charles B. Laughlin, a white man, citizen of Kansas, in government employ at Quapaw Agency, where they resided until after the birth of the two

elder children. He then left government employ, and settled at Seneca, where the family have ever since resided and where the other children were born.

The applicants are identified upon tribal rolls as follows: Rebecca L., principal applicant, and Alice A. on (1) Wallace Cherokee-Shawnee, (2) Dickson Cherokee-Shawnee, (3) Cherokee-Shawnee 1896 pay roll, (4) Cherokee 1896 census roll; Havilah, Ellen E. and Pamelia A. on all above, except the first; Stella E. on second and third, above; Levi D. on last above; the other three children, Charles H., Harold F., and Helen C. were born after all such rolls were made. In 1893 the father purchased for his wife and the children then living improvements on lands of the nation, which have since been maintained and controlled.

May 27, 1902, the Commission denied enrolment of all the applicants, upon the gound that they had not prior to the act of June 28, 1898 (30 Stat., 495), removed to and settled in the nation. This action was affirmed by the Department September 13, 1902. April 14, 1903, the Department regarded such action inconsistent with my opinion of March 16, 1903, in case of Joseph D. Yeargain and others, and directed reconsideration of the case. October 9, 1903, the Commission admitted the applicants. The nation filed a protest, and April 15, 1905, the

Department reversed the action of the Commission. The applicants filed a motion for review, and my opinion is requested.

The motion is based upon an asserted, "absolutely certain," inconsistency between my opinions in the cases of Clara A. Ward and Levi C. Flint, of March 23 and 25, 1905, with my opinions in Joseph D. Yeargain and John R. Trott, which, it is asserted, "held just the reverse." I am unable to appreciate by what course of reasoning counsel arrives to so certain and self-satisfactory conviction of conflict even apparent. In the cases of Yeargain and Trott, in the latter of which I never in fact rendered an opinion, the facts were that after being in full allegiance of the Cherokee Nation, prior to June 28, 1898, neither ever removed their effects or ceased to co-operate in the business, social or political activities of the Indian community--all of which elements occurred in the cases of Ward and of Flint, so that by operation of the expatriation provision of the Cherokee Constitution they became legally, as they were in fact, strangers and aliens to the Cherokee Nation, and were never reintegrated into the nation by any legally constituted authority. Without rehearsing at length the facts or the reasoning in the cases referred to, I invite counsel's re-examination of them and to the reasoning in opinion in Clara A. Ward as to construction of

the expatriation clause of the Cherokee Constitution.

In the present case it is no doubt true that the residence of the principal applicant at the Quapaw Agency in pupilage of her parents, while her father was in government employ worked no change of legal domicil, and nowise affected her Cherokee allegiance or her rights as a Cherokee citizen. Nor, perhaps, did her marriage to a citizen of Kansas, in view of section 6 of the act of February 8, 1887 (24 Stat., 390), of itself work an expatriation of the principal applicant or operate to deprive the children of the marriage of the benefits of Cherokee citizenship. It may be conceded for all purposes of this case that it would not, tho that act had no reference to the Five Civilized Tribes, and was not intended to affect the lands of those and other tribes named in section 8.

I am of opinion that the principal applicant's exemption from operation of the expatriation provision of the Cherokee Constitution can not be extended by reason of her marriage. Exception to the operation of statutes and constitutions arise only from some provision of law or constitution defining the fact or event that tells the statute. The Cherokee Constitution provides that the expatriation provision shall not operate as to minors. It fails to provide that coverture shall have that effect, Her marriage was voluntary. The Contract of Marriage in Cherokee

and our own law alike implies choice of the wife to take the husband's domicil. That is the necessary import of the marriage contract, and if there be age of consent to marry there is necessarily age to determine what is necessarily included in the marriage contract, and so it is that the marriage was necessarily a determination to change her legal residence from the Cherokee Nation--to remove her person--to the husband's domicil in Kansas.

She had no effects, and the expatriation clause was operative at least as early as expiration of a reasonable time for return to the nation after her attaining full age.

Assuming, for the case merely, that her marriage to a citizen of Kansas did not of itself work her expatriation, the she had no property in the nation, it would follow that the two elder children were born to Cherokee allegiance; butthat right of citizenship was subject to legistation of Congress or of the Cherokee Council. The children did not establish residence in the nation prior to June 28, 1898, nor prior to September 1, 1902, and never have become residents of the Nation. They were residents of Missouri, children of a father in allegiance to the United States, and as such they were entitled to the protection of and owed allegiance to the United States and the State of

Missouri, as indeed they did from birth to that of Kansas. In this respect their situation was unlike that of the Children of Stonewall J. Rogers, subject of my opinion of March 25, 1905, whose residence was taken up in the nation in January 1896.

In my opinion of December 28, 1905, upon inquiry of the Commissioner to the Five Civilized Tribes of September 25, 1905 (I.T.D. 13216-1905), referred to me I said:

> I am unable to see that any distinction is to be made between adults and minors who failed to locate permanently in the nation. While minors are excepted from operation of the act of the Cherokee National Council of December 4, 1894, no such exception in their favor has been made by any act of Congress.

I am still of that opinion, and it follows that the children born while it is, for purposes of their case, assumed that their mother was a minor against whom the expatriation provision of the Cherokee Constitution was not operative, as well as the children later born are not entitled to be enrolled, and the motion should be denied.

Very respectfully,

Frank L. Campbell,

Assistant Attorney-General.

Approved: September 24, 1906.

Thos. Ryan.

Acting Secretary.

(COPY) J.W.G.

DEPARTMENT OF THE INTERIOR,

Y.P. WASHINGTON.

I.T.D.18788-1906.

September 28, 1906.

The Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

In view of the approval by the Department of the opinion of the Assistant Attorney-General of September 24, 1906, in the Cherokee enrolment case of Rebecca L. Laughlin, et al, the motion for review mentioned in said opinion is denied.

A copy of the opinion is inclosed. The papers inclosed have been sent to the Indian Office for its files.

Respectfully,

Jesse E. Wilson

Assistant Secretary.

Thru the Commissioner
of Indian Affairs.

1 inc. & 14 to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
R 677

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

Muskogee, Indian Territory, October 9, 1906.

W. W. Hastings,

Attorney for the Cherokee nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion to reopen the Cherokee enrollment case of Rebecca L. Laughlin, et al., was denied by the Secretary of the Interior, September 28, 1906.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.H.J.-106.
H.J.C.

Cher D 313

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Ind. Ter. September 17/ 1900.

IN THE MATTER OF THE APPLICATION OF CAROLINE SUMMERS FOR THE ENROLLMENT OF HERSELF AND CHILD AS CHEROKEE CITIZENS.

The said Caroline Summers, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

What is your name? A Caroline Summers.
Q How old are you? A Fifty-four years old.
Q What is your post office? A Foyl, Indian Territory.
Q In what district do you xxx live? A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself and child.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A Six years; pretty near seven. It will be seven next spring--Well, I have lived here off and on ever since------
Q (interrupting) You have been here steadily for seven years?
A Yes, sir; it will be seven in the spring.
Q What was your name before it was Summers? A I have been married twice. My name was Barger.
Q And what was it before it was Barger? A My maiden name was Davis.
Q How did you xxxxx acquire your citizenship? A I was admitted by the Cherokee Commission.
Q Let me see your certificate of admission. I was admitted once and then when I came back I had to be admitted again.
THE COMMISSIONER: The applicant presents a document which reads as follows: "Senate Bill No. 20. An Act Readmitting Caroline Barger to citizenship. By the National Council be it enacted that Caroline Barger and her five children, Samuel, John, Charles, Frank K. and Edward, be and they are hereby admitted to all the rights and privileges of Cherokee citizenship by blood. Signed L.B.Bell, President of the Senate. R. T. Hanks Clerk of the Senate. Concurred in by the House on this 17th day of November, 1886. Alexander Hauw, Speaker of Council. W.C. Lipe, Clerk of Council. A. True copy from the original R.T.Hanks Clerk of the Senate. November 27th 1886." This shows that the bill referred to passed the two bodies. It does not appear that the Chief of the Nation; nor is there any evidence that it has been passed over his xx veto, or if its having become a law by lapse of time, as provided in sec. 14, Art. IV of the Constitution of the Cherokee Nation. This paper is returned to the applicant.
Q How you base your claim on that document? A Yes, sir.
Q Where have you lived since 1886, fourteen years ago?
A Why, I have lived in the xxxxxxxxxxxxxx Indian Territory except four years. Q. What four years? A After I was admitted on this paper I came here and lived here two years. And I had property in the States and I had to go and see about it--my husband was dead--and I had a big farm up close to Fairland and that is where I lived.

Q And you just went to look after your business? A Yes, sir.
Q Are you married at this time? A No, sir; I am a widow.
Q What was the name of your last husband? A Christopher Summers
Q Was he a Cherokee or a white man? A He was a white man.
Q Is he dead or alive? A He is dead.
Q How long since he died? A He has been dead four years.
Q When did you marry your husband Barger? A In 1866.
Q He was a white man, was he? A Yes, sir.
Q When did he die? A He died in 1881.
Q Have you got a certificate of your marriage to your husband? A Yes, sir.

THE COMMISSIONER: The applicant presents a duly authenticated marriage license and certificate. The license issued by the Clerk of Delaware District, under date of May 31, 1893, authorizing the marriage between herself and Mr. C. Summers, and the certificate shows that they were married by the Clerk on the same day. She is mentioned in this document as Miss Caroline Barger, which, however, is obviously a clerical error. These documents are filed herewith.

Q Give me the name of your child, please. A William Edward Barger.
Q How old is that child? A Eight.
Q Was that child admitted with you? A Yes, sir; admitted right on that paper.

THE COMMISSIONER: This child's name is identified with his mother on the paper mentioned above.

1896 Roll, page 257, No. 4463, Caroline Summers, Cooweescoowee District.
1896 Roll, page 257, No. 464, Edward Summers, Cooweescoowee District. (Note: Should be Barger.)

Q This child is living now is it? A Yes, sir.

THE COMMISSIONER: The applicant applies for the enrollment of herself and one child, as stated in the testimony. She presents certain evidence of admission by the Cherokee Council in 1866; she and her child for whom she applies were admitted at the same time and in the same manner. They are fully identified on the roll of 1896, and she presents satisfactory proof as to their residence, but in view of the question of law involved in the passage of the resolution referred to and set forth in the testimony, judgment will at present be suspended, and they will be closed accordingly. When the matter is considered by the full commission and a decision is arrived at, it will be made known to her at her post office address. She is desired to supply the Commission, if attainable, with evidence of the Chief of the Nation having signed the Act of Admission, or of its having been passed over his veto, or of its having become law by lapse of time, as provided by the law quoted in the testimony.

Applicant excused.

The undersigned being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony in this case, and all other proceedings, and that the foregoing is a correct and complete transcript of his stenographic notes of the same.

Wm. S. Wilshire

Subscribed and sworn to before me this 24th day of September A.D. 1900.

C. A. Bruce
Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 1902

ACTING CHAIRMAN.

B. 513.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of Caroline Summers for the enrollment of herself as a citizen of the Cherokee Nation.

Applicant present in person,
Cherokee Nation represented by W. W. Hastings.

COMMISSION: You submit this case to the Commission for final consideration? A. Well, yes, sir, I don't know but what I do.

COMMISSION: The applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration and the same is ordered closed and reported for final decision based upon the evidence now filed.

Arthur C. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur C. Croninger

Subscribed and sworn to before me this 26th day of February, 1902.

Commissioner.

Cherokee D 313

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES. H.A.L.

In the matter of the application of Caroline Summers for the enrollment of herself and her minor child, William E. Barger, as citizens by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 17, 1900, the applicant, Caroline Summers, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her minor child, William E. Barger, her son by a former marriage, as citizens by blood of the Cherokee Nation. Thereafter, at Muskogee, Indian Territory, on the 24th day of February 1902, the case was submitted to the Commission for final consideration.

The applicant, Caroline Summers, and her son, William E. Barger, are both identified on the Cherokee Census roll of 1896, the name of the son appearing on that roll as "Edward Summers."

The evidence in this case shows that the applicant, Caroline Summers, and her son, "Edward," with others, were re-admitted to the rights and privileges of Cherokee citizenship by blood by an Act of the National Council of the Cherokee Nation approved November 21, 1886. The last name of the applicant, Caroline Summers, appears in that Act as "Berger." The applicant, Caroline Summers, was married twice, the first time to a man named Barger, and the second time, after the death of her first husband, to a man named Summers. Summers died prior to the date of this application.

The evidence further shows that the applicant, Caroline Summers, lived in the Cherokee Nation for two years following her

re-admission in 1888 and then for four years was in the "States" attending to her property interests. From the year 1892 or 1893 she has lived continuously in the Cherokee Nation.

The authority of the Commission herein is defined in Paragraph 1, Section 21, of the Act of Congress, June 28, 1898, (30 Stats., 495.)

It is therefore the opinion of this Commission that Caroline Summers and William H. Berger are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this MAY 27 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY.

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

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes rendered May 27th, in the matter of the application of Caroline Summers for the enrollment of herself and her child, William E. Barger, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of said persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. D-313.

Caroline Summers et al.

Transferred to Cherokee 9555.

Cher D.314

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I.T., September 17,1900.

In the matter of the application of Preston G. Browning for the enrollment of himself and threechildren as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Preston G. Browning.
Q What is your age? A Forty-eight.
Q What is your post-office address? A Seneca, Missouri.
Q What district do you reside in? A Delaware District.
Q Are you a recognized citizenof the Cherokee Nation? A Yes sir
Q By blood or by marriage? A By marriage.
Q For whom do you apply for enrollment? A Myself and three children.
Q What was the name of your wife? A Sarah E. Browning.
Q What was her name before you married her? A Sarah E. Flint.
Q Is she livig ? A She is dead.
Q She a Cherokee citizen by blood? A No sir, she was a Shawnee, sister to these other girls.
(Note: Other girls referred to, Gertrude Flint and Lydia F. Spencer, Shawnees.)
Q Was she a recognized sister of the Cherokee Nation?
A Yes sir
Q When did you marry her? A 1883.
Q By what law? A Cherokee law.
Com'r Needles: The applicant presents certificate of marriage certifying that he was married to one Nellie Flint, a Cherokee citizen by blood, on the 7th of October 1883, license and certificate being in due form.
Applicant: They have got the name mixed, it is Sarah Ellen and that have got it Nellie.
Q What are the namesof your children? A ThomasE. Browning, aged fifteen; Ben F. Browning, twelve. Queen Ester Browning, nine years old.
Q That all? A Yes sir, that's all.
Q Are these children alive and living with you? A Yes sir.
1896 roll page 566 #68 Preston G. Browning, Delaware District;
1896 roll page 599 #86 Sarah E. Browning Delaware District;
1896 roll page 599 #87 ThomasE. Browning Delaware "
1896 roll page 599 #88 as Benjamin F. Browning, " "
1896 roll page 599 #89 as Ester Browning, " "
Q Your wife's name does not appear upon the authenticated roll of 1880; by what right does she claim citizenship in the Cherokee Nation? A She is a Shawnee; come in here in 1870.
Com'r Needles: In the register of names of Shawnees who moved to and located in the Cherokee Nation prior to the 10th day of June 1871, within two yearsfrom the 9th day of June 1869, under the 15th article of the Cherokee Treaty with the United States, #527, is found the name of Sarah C. Flint, which was the maiden name of Sarah E. Browning, she beingnow deceased.
Examined by Cherokee Attorney Hutchings:
Q Where were you residing when you married your wife ? A In Seneca, Missouri.
Q You were at that time a citizenof the State of Missouri?
A Yes sir.
Q And you have never moved from that place at all? A No sir I don't believe I have.
Q You have never resided a day in the Indian Territory except on a visit? A Oh yes, I have been in here half the time, I think, since I was married, but my home was in Seneca.
Q That 's what I mean, you always made your home in Seneca?

A Yes sir.
Q Have you ever voted at the municipal elections there?
A Yes sir.
Q Since you married this woman? A Yes sir.
Q Where was she residing when you married her? A Seneca, Missouri.
Q And had been a long time prior to that? A Yes sir, there and the agency.
Q She resided for a short time in the Cherokee Nation after she and her father came here from Kansas with the Shawnees? A I think about six years.

Com'r Meadies: The name of Preston G. Browning appears upon the census roll of 1896 as an intermarried white and the name of his wife, Sara E. Flint also appears upon the census roll of 1896 as well as the names of their children, Thomas E., Ben F. and Queen E. as indicated in the testimony; the name of his wife is also found on the list of Shawnees, more particularly described in the testimony; they are duly identified upon the rolls as indicated in the testimony; satisfactory proof as to their residence has not been made, consequently the name of Preston G. Browning and his children, Thomas E., Benjamin F. and Queen E. will be placed upon a doubtful card, and final judgment will be suspended.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 19 day of September 1900.

[illegible]

Commissioner.

D. 314.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of Preston G. Browning for the enrollment of himself and children as citizens of the Cherokee Nation.

Applicant represented by S. S. Clover, Vinita, I. T.
Cherokee Nation represented by W. W. Hastings.

P. G. BROWNING, the applicant, being duly sworn, testified as follows:

COMMISSION: What is your name? A P. G. Browning.
Q How old are you? A 49.
Q Your post-office address? A Seneca, Missouri.
S. S. CLOVER: State if Mrs. Browning ever owned any property or not at the time of her death, in the Cherokee Nation? A Yes, sir.
Q What was it, farm or personal? A I had a business in there, farm, and two or three lumber yards.
Q How much property do you think there was in value that you had there in the Cherokee Nation? A At the time she died?
Q Well, now and then? A Thirty thousand I guess.
Q Thirty thousand dollars? A Twenty-five or thirty.
Q Have you ever voted in the Cherokee Nation? A Yes, sir.
Q Did you ever pay any taxes? A Yes, I have paid taxes. Q Paid permit taxes for merchandise? (No response.)
Q Did your wife ever become a member of any other government than the Cherokee Nation? A Not that I know of.
Q Under what name was your wife enrolled on the roll of June 10, 1871, the Shawnee roll? A On the old Shawnee roll?
Q Yes, sir? A Sarah E. Flint.
Q Do you know whether your wife and children were ever on the roll made by John W. Wallace? A Yes, sir, they are on the roll.
Q Was you ever on the roll made by James Dixon? A Yes, sir.
Q Was you ever onthe roll made when the payment was made by Treasurer Lipe of the Cherokee Nation? A Yes, sir.
Q Did your wife or you receive payments on all those rolls? A Yes, sir.
W. W. HASTINGS: Married since you enrolled, haven't you? A Yes, sir.
Q Your present wife is a white woman? A Yes, sir.
Q What is her name? A Her name was Helen Williams before she married.
Q When did you acquire any improvements in the Cherokee Nation? A 1884 I believe.
Q When were you married first? A 1883.
Q Where did you get a farm? A Right north of Bill Howes.
Q Owned it ever since? A Yes, sir.
Q Own it now? A No, I don't know that I have the one that I first improved on now.
Q How long did you retain it? A Oh, I guess ten years before I sold it.
Q Most of this property that you told Mr. Clover that you had was composed of lumber yards? A Yes, sir.
Q In towns, incorporated towns? A Yes, sir. Most of it.
Q Did the non-citizens own lumber yards in towns in the Cherokee Nation? A I believe they do now; they didn't then though; no, they couldn't do it then.

Q I believe you lived, you state, in Seneca, Missouri, when you married, and have lived there ever since? A Yes, sir.
Q Live there now? A Yes, sir.

COMMISSION: There is offered in evidence a certified copy of a marriage license issued by J. H. Hughes, recorder, County of Newton, State of Missouri, on the 19th day of September, 1900, authorizing the marriage of F. G. Browning and Elizabeth N. Williams, and a certificate certifying that they were married by L. G. Wilson, a minister of the Gospel, on the 19th day of September, 1900. This license and certificate is offered in evidence by the representatives of the Cherokee Nation present, and it is filed herewith.

COMMISSION: Do you submit this case to the Commission for final consideration?

S. S. CLOVER: Yes, sir. No, we want to furnish certified copies of the roll of Wallace, and Dixon and Lipe Rolls. We will send them here to you.

COMMISSION: Upon an examination of the pay roll of Cherokee Shawnee citizens, as disbursed by D. W. Lipe, treasurer of said Nation, authorized by an act of the National Council, approved March 30, 1896, the following names appear on page V: Sarah E. Browning, Thomas E. Browning, Ben F. Browning, and Esther Browning, numbered 146, 147, 148, and 149, respectively.

The attorney for the applicant will be granted fifteen days from date hereof in which to furnish the Commission with certified copies of the roll made by John W. Wallace and the roll made by James G. Dixon of the Cherokee-Shawnee citizens. The attorney for the applicant, and also the representatives of the Cherokee Nation, submit this case to the Commission for final consideration, and it is ordered closed and reported to the Commission for final consideration upon the evidence now filed in addition to the certified copies of the rolls which the attorney for the applicant desires to file.

W. W. HASTINGS: Mr. Browning, where were the children for whom you apply born? A They was born in Seneca, Missouri.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly reported the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 25th day of February, 1902.

Commissioner.

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 9, 1902.

In the matter of the application of Preston G. Browning for the enrollment of himself as a citizen of the Cherokee Nation by intermarriage and of his children as citizens of the Cherokee Nation by Shawnee blood. Cherokee D. 314.

Brief on behalf of the Cherokee Nation.

Preston G. Browning is a white man, and since he made his application subsequent testimony shows that he had married a white woman, and therefore if he ever had any rights he forfeited them under Section 666 of the Compiled laws of the Cherokee Nation, 1892, to which reference is made.

As to his children: Their mother was the daughter of Levi C. Flint, whose case is Cher okee Doubtful No.315. The mother of these children was married to Preston G. Browning in 1883 in Seneca, Missouri, where she continued to live until her death, and where all of these children were born, and where they live at the present time. They have never lived in the Cherokee Nation, and certainly have never acquired citizenship in the Cherokee Nation. Their father states that he continued to exercise the rights of citizenship in the state of Missouri after his marriage to their mother the same as he had before by voting in the municipal elections and otherwise exercising the right of citizenship in the state of Missouri.

The domicil of the child is that of the father, and in American and English Encyclopedia, page 866, it is stated: "An infant can not of his own accord change his domicil, but it changes while the father is living with the domicil of the father". The residence of the father as well as the actual residence of these children was in Seneca, Missouri, and Section 21 of the Curtis Bill provides that no person who has not heretofore removed to and in good faith permanently located within

the limits of the Cherokee Nation shall not be rurelled. It is difficult to conceive upon what theory the enrollment of these children could be asked. As contended in the case of Levi C. Flint, Cherokee D. 315, the mother of these children may have had some right in 1871, but she clearly forfeited it by marrying in the state of Missouri and by her continuous residence there subsequent to that time.

Reference is made to the brief filed in the case of Levi C. Flint, Cherokee Doubtful No. 315.

Respectfully submitted,

W. W. Hastings
Attorney for the Cherokee Nation.

Cherokee D 314

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Preston G. Browning for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his three minor children, Thomas E., Ben F., and Queen E. Browning, as citizens of the Cherokee Nation of Shawnee blood.

D E C I S I O N.

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The record in this case shows that on September 17, 1900, Preston G. Browning appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his three minor children, Thomas E., Ben F., and Queen E. Browning, as citizens of the Cherokee Nation of Shawnee blood. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 24, 1902.

The evidence in this case shows that on October 7, 1883, Preston G. Browning, a white man, married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, Sarah E. Flint, a Shawnee, an adopted citizen of the Cherokee Nation. Preston G. Browning is identified on the Cherokee census roll of 1896, and his children, by his wife, Sarah E. Browning, Thomas E., Ben F., and Queen E. Browning, are identified on the Dickson Roll of Shawnee-Cherokees, on the Cherokee-Shawnee Pay Roll of 1896, and on the Cherokee Census Roll of 1896.

The evidence further shows that Preston G. Browning and his wife, Sarah E. Browning, were residents of Seneca, Missouri, prior to their marriage, and lived there up to the time of her death, and that Preston G. Browning has lived and exercised the rights of citizenship there ever since. All the children of Preston G. Browning and his wife, Sarah E. Browning, were born at Seneca, Missouri, and have always lived there.

Paragraph 9 of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), provides:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship;"

It further appears from the evidence that on September 19, 1900, Preston G. Browning married a white woman.

Section twenty-one of the Act of Congress approved June 28, 1898 provides for the enrollment of Cherokee citizens "with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Section 666 of the Compiled Laws of the Cherokee Nation (1892) is as follows:

"Should any man or woman, a citizen of the United States, or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person, (as the case may be), having no rights of Cherokee citizenship

[illegible]

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[illegible]

[illegible] JUL 16 1902

Cherokee D #314

JAC

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

In the matter of the application for the enrollment of Thomas E., Ben F. and Queen E. Browning, as citizens of the Cherokee Nation of Shawnee blood:

D E C I S I O N

The record in this case shows that on September 17, 1900, Preston G. Browning appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of his minor children, Thomas E., Ben F. and Queen E. Browning, as citizens of the Cherokee Nation of Shawnee blood. The application also included the said Preston G. Browning, who claims right to enrollment as a citizen by intermarriage of the Cherokee Nation, but the status of such persons not being fixed at this time, the said Preston G. Browning is not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 24, 1902. On July 16, 1902, the Commission rendered a decision in the matter of said application and forwarded the same to the Department of the Interior for approval, and the Department approved said decision on September 13, 1902. Under date of April 3, 1903, the Department returned the record in said case to the Commission for readjudication, and further proceedings in the matter of said application were had at Tahlequah, Indian Territory, on May 28, 1903.

The evidence shows that the applicants, Thomas E., Ben F. and Queen E. Browning, are the minor children of one Sarah E. Browning, deceased, who was a Shawnee Indian by blood. The said Sarah E. Browning is identified on the register of names of members of the Shawnee tribe of Indians who removed to and located in the Cherokee Nation prior to the 10th day of June, 1871, in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation of Indians on the 7th day of June, 1869, and approved by the President of the United States on the 9th day of June, 1869, under her maiden name as "Sarah C. Flint"; on the Wallace roll of Cherokee Shawnees as "Sarah Ellen Flint"; on the Dickson roll of Cherokee Shawnees as "Sarah E. Browning"; on the Cherokee-Shawnee pay roll of 1896 as "Sarah E. Browning", and, as an adopted Shawnee, on the 1896 census roll of the Cherokee Nation under the name of "Sarah E. Browning".

All of the minor applicants herein are duly identified on the Dickson roll of Cherokee-Shawnees; the Cherokee-Shawnee pay roll of 1896 and, as adopted Shawnees, on the 1896 census roll of the Cherokee Nation; the applicant, Queen E. Browning, being identified on all of said rolls under the name of "Ester Browning".

The evidence further shows that the said Sarah E. Browning, mother of said applicants herein, resided in the Cherokee Nation for about six years after her removal thereto with the Shawnees, when she removed to the state of Missouri and continued to live therein until her death, all of said applicants being born in said state.

The evidence further shows that the mother and father of said applicants owned personal property and valuable improvements in the Cherokee Nation while residing in said state of Missouri.

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Joseph D. Yeargain et al., Cherokee D #224 (I.T.D. 2900-1903), that the said Thomas E. Browning, Ben F. Browning and Queen E. Browning should be enrolled as citizens of the Cherokee Nation of Shawnee blood, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,

this NOV 14 1903

F. R. Cherokee R-678.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Preston G. Browning as an intermarried citizen of the Cherokee Nation.

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, September 17, 1900, application was received by the Commission to the Five Civilized Tribes for the enrollment of Preston G. Browning as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory February 24, 1902.

The records further show that on July 16, 1902, the Commission to the Five Civilized Tribes rendered its decision herein, denying said applicant's right to enrollment as a citizen by intermarriage of the Cherokee Nation. On September 13, 1902, the Department approved said decision. Thereafter, on April 3, 1903, this case was remanded by the Department for readjudication, and further proceedings were had in the matter of said application at Tahlequah, Indian Territory, May 25, 1903.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, Preston G. Browning, is a white man and neither claims nor possesses any right to enrollment as a citizen of the Cherokee Nation other than such rights as he may have acquired by virtue of his marriage on October 7, 1883, to his wife, Sarah N. Flint, who was at the time of said marriage an adopted citizen of the Cherokee Nation of Shawnee blood, and whose right to enrollment as a citizen of the Cherokee Nation was denied by the Department on June 5, 1905.

In view of the foregoing, it is considered that the applicant did not marry in accordance with Cherokee law, a citizen by blood of the Cherokee Nation prior to November 1, 1875.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the decision of the Supreme Court of the United States, dated November 5, 1906, in the cases of Daniel Red Bird, et al., vs. the United States, Nos. 125, 126, 127 and 128, the

-2-

Said applicant, Preston F. Browning, is not entitled under the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), to enrollment as a citizen by intermarriage of the Cherokee Nation, and his application for enrollment as such is accordingly denied.

SIGNED Tams Bixby,
Commissioner.

Dated at Muskogee, Indian Territory

this _____.

C.D. 314 ✓

No. 42,718-1902.

C.D. 314

In re
Application of Preston G. Browning, and children, Thomas E., Ben F., and Queen E., for enrollment as Cherokee citizens.

Second Supplemental Brief on Behalf of Preston G. Browning.

Harry E. Kimball,
Wm. Henry White,
A. E. L. Leckie,
Creed M. Fulton,
[redacted]
ATTORNEYS AND COUNSELLORS AT LAW,
416 [redacted] FIFTH STREET, N.W.
WASHINGTON, D. C.

ALVAH BUSHNELL CO., LAW STATIONERS, 4 N. 10TH ST., PHILA.

In re		
Application of Preston G.		
Browning, and children,		
Thomas L., Ben F., and		No. 42,718-1902.
Queen E., for enrollment		
as Cherokee citizens.		

SECOND SUPPLEMENTAL BRIEF ON BEHALF OF PRESTON G. BROWNING.

"The evidence in this case shows (as copied from the decision of the Commission dated July 16, 1902) that on October 7, 1883, Preston G. Browning, a white man, married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, Sarah E. Flint, a Shawnee, an adopted citizen of the Cherokee Nation. Preston G. Browning is identified on the Cherokee Census Roll of 1896".

His wife having died, "It appears from the evidence that on September 19, 1900, Preston G. Browning married a white woman."

The enrollment of Preston G. Browning is denied by the Commission under authority of Section 666 of the Compiled Laws of the Cherokee Nation (1892).

The authority of the Dawes Commission in making rolls of citizenship is a limited one. The method of making rolls of the Cherokee citizens is clearly outlined in the first paragraph of Section 21 of the Act of June 28, 1898, which is, to investigate the rolls and "omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto x x x x with such intermarried white persons as may be entitled to citizenship under Cherokee Laws".

We begin with the finding of the Dawes Commission that Preston G. Browning was properly on the Roll of 1896. At that time he was entitled to citizenship under Cherokee Laws

and is entitled to enrollment now except for some intervening cause.

The alleged intervening cause is, as above shown, his intermarriage with a white woman, which took place September 19, 1900.

Section 666 of the Compiled Laws says that in case a widower intermarries with a white woman his rights as an intermarried citizen shall cease, but the method provided by Section 669 for terminating his rights has been overlooked by the Commission. Section 669 provides:

> Sec. 669. The Circuit Court shall have authority to hear and determine all cases that may be brought before it by any person or by the solicitor of the District wherein it may be alleged that a citizen of the United States or of any other government, adopted by intermarriage under the laws of the Cherokee Nation, has forfeited his rights to citizenship in said Nation by acts which declare such forfeiture. Proceedings in such cases shall be by citation if the party be resident in the Cherokee Nation, or by thirty days notice of such proceedings in the Cherokee Advocate and be conducted as civil suits before such Courts. On the finding of verdict by the jury against such person, it shall be the duty of the clerk of the Court to notify the Principal Chief of such finding, and it shall be the duty of the Principal Chief to make known such finding to, and call on, the United States Indian Agent for the removal of such person beyond the limits of the Cherokee Nation. It shall not be lawful thereafter for any clerk to issue a marriage license, or permit to reside in the Cherokee Nation, in any capacity whatever, to any person so declared to have forfeited his rights to citizenship in the Cherokee Nation. -- December 6, 1890.

Sections 666 and 669 are parts of the same act, were passed at the same time and must be construed together. -- Endlich on Interpretation of Statutes, Sec. 40 et seq.

While Section 666 says the rights shall cease upon a remarriage to a white woman, yet Section 669 provides the only means by which his rights may be terminated, viz., by proper proceedings instituted in a certain Court and upon a verdict of a jury. Certainly there is no implied authority in the Dawes Commission to become Court and jury in such case and there is no express authority.

Even if the Commission had the authority to decide

such matters, there is no such law, nor was there on September 19, 1900, when the remarriage took place.

Section 26 of the Act of June 28, 1898, abolishes Section 666 and Section 669; and Section 28 of the Act of June 28, 1898, abolishes the Court in which the proceedings under Section 669 were authorized to be brought to enforce the provisions of Section 666.

At the time, therefore, of Preston G. Browning's second marriage, Section 666 was not in effect and there was no law prohibiting or providing a penalty for his remarriage.

We are, therefore, brought back to the original proposition that he was properly on the Roll of 1896 and that there is no subsequent cause which prevents his enrollment now, and he is, therefore, entitled to enrollment.

Respectfully Submitted,

Harry T. Kimball
Wm. Henry Fly
A. E. J. Pickens
Creed M. Fulton
Attorneys for Applicant.

CHEROKEE----- D.,--214.

P. G. Browning, et al,)
) Applicant.
Cherokee-Shawnees.)

Sarah E. Browning, daughter of Levi C. Flint and Estella Flint, Cherokee-Shawnees by blood came to the Cherokee Nation prior to June 10, 1871, under ~~her treaty~~ the 15th Art. of Treaty July 19, 1866, and the agreement between the Cherokees and Shawnees approved June 9, 1869. Enrolled on the ~~Shawnee~~ Cherokee-Shawnee Register Roll of June 10, 1871.

327, Flint Sarah E.

On the Cherokee-Shawnee Roll made by J. W. Wallace:

260 Flint, Sarah Ellen, Age 30.

On the Cherokee-Shawnee Roll made by J. G. Dickson:

142, Browning Sarah E, Heads 36 F.

143, Browning, Thomas E, Son, 11, M.

144, Browning, Ben F., Son, 9, M.

145 ,, Ester, D. 5, F.

On the Cherokee Census Roll of 1896.

On the (Lipe) Cherokee-Shawnee Roll made under an Act of the Cherokee ~~Council~~ National Council, Approved March 30, 1896.

146, Sarah E. Browning.

147 Thomas E. Browning.

148, Benjamin F. Browning.

149, Ester Browning.

Received Payment on All Rolls.

Moved with her parents to the Quapaw Agency, Indian Territory, while a minor and married and moved to Seneca, Missouri, where she lived until she died.

All of her children were born in Missouri. She and her husband had $25,000 worth of property in the Cherokee Nation.

Never became a citizen of any other Government but the Cherokee Nation. She married P. G. Browning in 1883, and lived with him until she died January 25, 1899.

These applicants are Cherokee-Thomas by blood, who become citizens of the Cherokee Nation "on equal terms in every respect with native citizens."

18th Article Treaty July 19, 1866.

BLACKFEATHER vs CHEROKEE NATION, 186 U. S. 512.

They became citizens of the United States by operation of law, but their tribal and other property rights are protected,

RS 24 Stats. at L. 390, Approved March 3, 1891.

" " " 392.

And previous to the passage of said laws, they could not become citizens of the United States.

ELK vs WILKINS, 112 U. S. 94.

"Whenever any citizen shall remove with his effects out of the limits of this State, and become a citizen of any other government, all his property and privileges in the State shall cease."

Cherokee Constitution, Art. 1, Sec. 3, p. 12, Cherokee Laws.

[illegible] not part. [illegible] and not [illegible] representative [illegible] rights. The citizen to remain [illegible] must be of age, free [illegible] own master, and no [illegible], either, in [illegible], or under control or restraint. [illegible] necessary qualifications to comply with the law of naturalization of the "other government." In such case [illegible] Nounce [illegible] the citizens of the Cherokee Nation.

The temporary residence under the jurisdiction of the "other government" does not make him a citizen thereof, any more than a residence of a Creek Indian in the Cherokee Nation makes him a citizen of the Cherokee Nation and entitled him to participate in the final allotment of lands and distribution of the common property of the Nation.

These applicants have never joined "any other Government," nor have they ever received any payments or allotments of land among any tribe or Nation.

"He must not only remove his effects, but he must become a citizen of another government."

ASS'T. ATTY. GEN'L. LITTLE, 8th ANNUAL REPORT.

Are we to judge by the practice in the Cherokee Nation? Then the evidence of D. W. Bushyhead, ex-Principal Chief of the Cherokee Nation, before the Clifton Commission, Freedman Enrollment, 1896, shows that he went to California in 1849, leaving effects in the Cherokee Nation, a slave, horse and saddle. Voted and held office in California, and returned after 19 years absence, and found slave freed, horse dead and saddle lost. He was appointed and served two terms as treasurer of the Cherokee Nation, and was elected and served two terms as Principal Chief, and never was re-admitted.

These applicants were under restrairt and could not act of their own free will.

That clause of the Cherokee Constitution never intended to destroy the happiness of the marriage relationship by compelling the wife to separate and live apart from her husband and children and to deny herself of his support, under the penalty of the forfeiture of her tribal citizenship, and other property purchased by her pro-rata share of ~~Shawnee~~ funds paid to the Cherokee

Nation. The removal of a minor by guardian or parents does not de-citizenize the minor until he becomes of age and makes his choice.

Indian Children born in Arkansas or Missouri do not become citizens of these states by reason of their Indian allegiance, but their parents must be citizens of the United States to be a bona fide citizen of either state. The act of temporary residence of their parents did not constitute them bona fide citizens of Missouri, for their parents were not citizens of the United States, and could not be made a citizen thereof unless by some special act of Congress or a Treaty stipulation. The authorities on this question are undisputed.

Even, after the parents became citizens of the United States by reason of the Act of Congress, as Amended March 8, 1901, all their Tribal property and rights were preserved for them. Indian children born in the Cherokee Nation do not become Cherokee citizens.

By the laws of the white man, the sins and omissions of the parents are visited upon the heads of their children. Strange to say, but by Indian law, more particularly the Cherokee laws, are always in favor of their children. They abound with "Provided, That nothing in this Act shall bar minors and orphans."

"The descendants of Cherokee men by all free women, whose parents may have been living together as man and wife," p. 14, Cherokee laws, and Sec. 692, p. 346.

Unlawful marriages are absolutely void, but, "Provided That the issue from such marriage shall nevertheless be legitimate; provided, also, that when a man, having by a woman

one or more children, shall afterwards inter-marry with such woman, such child or children, if recognized by him, or known to be his, shall thereby be legitimate." Or page 287, in regard to wills, "saving to minors and persons' non-compos mentes' one year to contest such will, after the removal of their disabilities."

The Indian loves and protects his children and their rights and no better example can be shown than by reading exhibit "G" being an authenticated copy of the decision by the Tahlequah Circuit Court, Cherokee Nation, in the case of Johnson vs. Harris, Principal Chief.

These applicants in view of their rights, and not for the purpose of denying rights to others, call your attention to the fact that almost all of the Cherokees born prior to the Civil war, did remove with their effects out of this Nation, and that large numbers of the births during 1861 to and including 1866, took place in the neighboring States, Territories or Tribes, out of the jurisdiction and "limits" of the Cherokee Nation, and that the records of the National Council fail to show their re-admission; and their sole claim now rests upon the authority of Congress in making the "Authenticated Roll" as evidence of their Cherokee citizenship, but these applicants do not ask or pray that you strike them off the final Roll by reason of their non-residence or misfortune of birth, or the disregard of the National Council in not re-admitting them to citizenship, but pray that the reasons and facts given will aid them in their petition for enrollment. Are not these quotations of Cherokee Constitution and law seemingly out of place in face of this Section of the Curtis Act? :

"Sec. 26. That on and after the passage of this Act the laws of the various Tribes or Nations of Indians shall not be enforced at law or in equity by the Courts of the United States in the Indian Territory."

The commission, acting in the capacity of a Court for

the enrollment and as judges of the rights of the applicants, cannot enforce the Cherokee Constitution and laws against the rights of these applicants whose claims rest on Art. 15, Treaty July 19, 1866.

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."—Curtis Act.

This applies to State, Territorial, and Tribal boundaries, and makes absolute, without previous notice the confiscation of the property and rights of all Indians who were absent prior to June 28, 1898.

"No person shall be deprived of life, liberty or property without de due process of law."—Fifth Amendment to Constitution.

"This Article is a restraint upon the legislative as well as the executive and judicial branches of the government, and cannot be so construed as to leave Congress free to make any process 'due process of law.'"

"These words generally imply and include regular allegations, opportunity to answer, and trial according to some settled course of judicial proceedings."

MOYNEY vs HOBOKEN L. & I. Co.—18 Howards 206.

The striking off of the names of these applicants from the rolls forever prevents them from participation in the final allotment of lands and other common property of the Cherokee Nation, and confiscates their present holdings without compensation or "due process of law."

These Indian applicants became citizens of the United States by virtue of the Acts of Congress.

24 Stat. at L., 390, Amended March 3, 1901.

"Every Indian in the Indian ~~xxxxxx~~ Territory, is hereby declared to be a citizen of the United States, and is ~~entitled~~ entitled

to all the rights, privileges and immunities of such citizens, whether said Indian has been or not, or otherwise, member of any Tribe of Indians within the Territorial limits of the United States, without in any manner impairing or otherwise affecting the rights of any such Indian to Tribal or other property."

By the law quoted Congress (by implication) repealed that portion of the Curtis Act, "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation to which he claimes citizenship." These applicants were granted "all the rights, privileges and immunities" of citizenship of the United States.

There is no law compelling citizens of the United States to remove to and settle in good faith in the States, Territory or Nation in which he claims citizenship. All citizens of the United States were privileged on June 28, 1898, and at all times before and since, to move to and reside in any State or Territory, without any forfeiture of any of their rights or property.

If that part of the Curtis law is now in force, then these applicants, citizens of the United States, are denied some of the rights, privileges and immunities " that they should enjoy and are entitled to.

The Tribal rights of these applicants are protected by said amended Act, "without in any manner impairing or otherwise affecting the rights of any such Indian to Tribal or other property."

This amended act repealed the destructive and unconstitutional clause of the Curtis Act quoted, or otherwise these applicants are denied their rights to "Tribal or other property" without "due process of law" contrary to the Act making them citizens.

S S Glenn
Atty for Applicants

(Copy)

Exhibit G.

At the regular term of the Circuit Court of Tahlequah District, C. N., Sept. 5th, 1895, in the case of J. B. Johnson et al, vs C. J. Harris, Principal Chief, etc;

That parties having submitted a statement of the facts in the case to which both agree, for a decision by the Court. Upon examination of the statement of facts the Court finds that it is alleged and admitted that plaintiffs are of Cherokee blood, and at one time owned an improvement and lived on it in Cooweescoowee District, this Nation, and were citizens thereof; and in 1894 removed out of the limits of this Nation into the Osage Nation; and it is further admitted that the wife and children are part Osage by blood, and as such that they participated in the per capita payments of money made among the Osage people; and that J. B. Johnson himself drew money at the "Strip" payment among the Cherokee people. It is evident to the Court that the wife, being of elective age has preferred being a citizen of the Osage Nation to that of being a citizen of the Cherokee Nation, and in the exercise of that right of choice she has identified herself with the Osage people, and become a recognized citizen thereof, thereby has forfeited all rights of citizenship in this Nation. As the Court holds that the wife in this case being of Cherokee and Osage blood both, cannot hold and exercise the rights of citizenship in the Cherokee and Osage Nation both at the same time. She must identify herself with one or the other. As to the rights of such children as J. B. and Julia M. Johnson might have had born to them prior to their removal to the Osage Nation, being natural born

citizens of this Nation by virtue of their Cherokee blood, remain unimpaired, they being minors and their rights of citizenship in this Nation being vested by the Constitutions and laws of this Nation, the mere fact that of their mother having taken them with here when she went to the Osage Nation does not and cannot divest them of their rights in the Cherokee Nation. There is no power or authority that can divest a minor citizen of this Nation of blood of his rights of citizenship. It is therefore the opinion of the Court that such children of J. B. Johnson and wife as they might have taken with them when they removed to the Osage Nation and are now minors, have not forfeited their rights in this Nation; that forfeiture of citizenship in this case must be done voluntarily; and when the children in question reach their majority they will then be competent to elect as to which of these two Nations they prefer to live in; then if they elect to live in the Osage Nation they will forfeit their rights here; and as to the rights of such children as J.P. and Julia M. Johnson might have had born to them since the mother has been recognized as a citizen of the Osage Nation the Court holds are wholly identical with those of the mother. They being of Osage blood and born in the Osage Nation are natural born citizens thereof by virtue of their Osage blood and have no rights in the Cherokee Nation whatever; and judgment is hereby ordered accordingly.

H. L. LANDRUM,

Judge Presiding.

R O L L S.

Under the same Act of Congress John W. Wallace made the Rolls of the Shawnees, Delawares and Freedmen, and the Court of Claims recognized the validity of these Rolls. 30 Ct.of Cl.189.

The Cherokee National Council passed an Act entitled, "An Act to Equalize the Per Capita Shares of the Shawnee Citizens of the Cherokee Nation with the Shares paid the Cherokees by Blood," approved March 30, 1896. The Cherokee Nation by the Principal Chief appointed William Carey, the Shawnee Business Committee appointed Jacob Guthrie, and the Secretary of the Interior appointed James G. Dickson, and the Commission examined each Shawnee applicant and made the Roll, throwing off forty persons, and the Roll so made is known as the Lipe Roll.

The roll of Cherokee-Shawnees known as the Dickson Roll was made under the decree of the Court of claims in the case of Johnson Blackfeather, Principal Chief of the Shawnee Indians, vs The Cherokee Nation, and the United States.

The Register Roll of June 10, 1871, was made pursuant to the agreement of June 9, 1869.

The applicants are on these rolls and have been recognized by the Cherokee authorities as Cherokee-Shawnees, entitled to participate in the pro rata payments of money due the Cherokees Nation, and these acknowledgments have a binding force and by these rolls they were acknowledged as Cherokees regardless of residence and place of birth, and the Cherokee Nation is estopped from disputing their claims, except in case of fraud.

AN ACT TO EQUAL IZE THE PER CAPITA SHARES OF THE ~~XXXXXX~~SHAWNEE CITIZENS OF THE CHEROKEE NATION WITH THE SHARES PAID THE CHEROKEES BY BLOOD.

----ooOoo----

BE IT ENACTED BY THE NATIONAL COUNCIL, That there be (and) is hereby appropriated out of the first instalment of the money derived from the sale of the Cherokee Outlets set aside by the Act of Congress approved March 3, 1893, to pay the claims of the Shawnees, Delawares and Freedmen citizens of the Cherokee Nation, a the sum of $76,532 to be paid the Shawnee citizens of the Cherokee Nation whose names shall appear upon the roll made by the Secretary of the Interior under the terms of the decree entered in the case of Johnson Blackfeather, the Principal Chief of the Shawnee Tribe of Indians vs The Cherokee Nation, et al, in the Court of Claims of the United States. Provided that the said Shawnee citizens of the Cherokee Nation shall, before this provision becomes a effective, through their authorized agent or agents, first enter into a written a reement with the Principal Chief of the Cherokee Nation, requesting the Secretary of the Interior to prepare said roll of Shawnee citizens by a commission of three, one appointed by the Principal Chief of the Cherokee Nation, one by the Secretary of the Interior, and one by the Business Committee. The said roll to contain the names only of the Shawnee Tribe of Indians and their descendants as became citizens of the Cherokee Nation by operation of the agreement between the Cherokee Nation and the Shawnee Indians, dated the 9th day of June, 1869, and who were living on May 5th, 1894, or by the operation of special Acts of the National Council duly complied with by the parties admitted and were living at said date. Provided, however, that the said roll herein author-

ized shall show the said Shawnee who were citizens of the Cherokee Nation on April 20th 1886, November 20th, 1890, and May 5th, 1894.

2. The said money so appropriated shall be paid said Shawnee Indians by the Treasurer of the Cherokee Nation as soon as said money (fund) shall be available; and said treasurer shall pay no Shawnee Indian more than an amount of said fund sufficient in addition to what shall be to each Shawnee Indian citizen of the judgment in the case last before mentioned to make the sum paid each Shawnee citizen $295.35. Provided, that no Shawnee admitted of Shawnee Child born subsequent to the date as shown in the aforesaid roll shall be entitled to receive the amount or amounts of said payment or payments authorized on said dates by Act of the National Council, it being the intention to pay the said Shawnees no more than if they were Cherokees by blood. Provided, further, that if the said full amount hereinbefore appropriated, in section first is not required the balance remaining is covered back and retained in the Treasury of the Cherokee Nation.

3. From the sum so above quoted there shall be deducted by said Treasurer the amount the said Shawnee Indians have agreed to pay their authorized attorney in this matter, which shall be paid said attorney out of said fund of the Treasurer as soon as the same is available; also, the sum of $1000.00 or so much thereof as shall be necessary for the payment of the services of the Census Commission as hereinbefore provided for, half of said amount to be paid by the Cherokee Nation and half by said Shawnee Indians. Provided, that the expenses incurred in making said payment shall be borne by the said Shawnee Indians out of said amount to be paid them, as provided in this Act.

4. That all acts inconsistent with this Act are hereby repealed.

Approved March 30th, 1896.

.....

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah 9th, 1896.

(S E A L)

IT IS HEREBY Certified that the foregoing is a correct copy of the Original .

Witness, Seal of the Cherokee Nation.

(Signed) JOHN L. ADAIR,
Executive Secretary.

CD 314

IN THE DEPARTMENT OF THE INTERIOR
WASHINGTON

In the matter of the application for the enrollment of Thomas E., Ben. F. and Queen E. Browning, as citizens of the Cherokee Nation.

(Departmental Letters D. C. 25677-1905; I T D 4659-1902; 3432-1903; and 852-1904)

Motion for Review.

Comes Now the above named applicants and move the Department for a review of the decision of June 5, 1905, and for grounds for said motion state:

The record in this case shows that the minor applicants are the children of Preston G. Browning and Sarah E. Browning. Preston G. Browning was an applicant for enrollment as an intermarried citizen, but was not included in the decision in this case, being we presume otherwise classified.

Sarah E. Browning was a Shawnee Indian by blood and she removed to the Cherokee Nation prior to June 10, 1871 in accordance with the provisions of the Cherokee Shawnee agreement of June 7, 1869.

She is now deceased and her name is identified on the Cherokee Shawnee register under her maiden name of "Flint." Her name appears upon the Cherokee-Shawnee Wallace Roll as Sarah Ellen Flint ; on the Dickson Roll as Sarah E. Browning; on the Cherokee Shawnee pay roll of 1896 as Sarah E. Browning and on the 1896 census roll of the Cherokee Nation as Sarah E. Browning, as adopted Shawnee.

The minor applicants are identified by the Dickson roll, the Cherokee Shawnee pay roll of 1896 and the 1896 census roll of the Cherokee Nation.

The testimony of Levi C. Flint, taken May 25, 1903, in his own case, which is made a part of the record in this case shows that he and his

family, including of course the mother of these minor applicants, came to the Cherokee Nation and established a residence therein prior to June 7th 1871, thus complying with the terms of the Cherokee-Shawnee Agreement, and he at that time, together with the members of his family, became citizens of the Cherokee Nation, with all of the rights and privilegesof Native Cherokees.

There is no contention about the rights of Sarah E. Browning on June 7th 1871, she had all of the rights and privileges, on that date, under the Cherokee Shawnee Agreement, of a native Cherokee.

This same testimony shows that Levi C. Flint and his family resided on a farm of their own in the Cherokee Nation until 1874, when he moved away from his farm across into the Quawpaw Agency and took charge of the Government Indian Blacksmith shop and conducted that in the Indian Territory until 1879 when he moved to Seneca, Missouri where he has since continued to reside. Page 4 of his testimony shows this in the following question and answer:

"Q How long have you lived in Seneca, Missouri?"
"A-- I moved there in 1879."

The testimony of Charles B. Laughlin on page 11 of the record shows when the witness became acquainted with Levi C. Flint he (Flint) was in the employ of the United states Government in the Quawpaw Agency of the Indian Territory as a government blacksmith for the Indians and that he got out of the service of the Government in 1879. It was after this that he removed from the Indian Territory into the State of Missouri locating in Seneca, Newton County, Missouri, within a stones throw of the Indian Territory line.

The testimony of Preston G. Browning, taken September 17, 1900, shows that he was lawfullymarried to Sarah E. Flint under the name of Nellie Flint, in accordance with the laws and customs of the Cherokee Nation on October 7th 1883, the license and certificate being in due form.

The testimony of Preston G. Browning taken on February 24, 1902, shows that he and his wife acquired a farm in the Cherokee Nation the year following their marriage or in 1884. The testimony on this point is clear and is shown by the following questions and answer taken from the

record:

"Q When did you acquire any improvements in the Cherokee Nation?"
"A- 1884 I believe."
"Q When were you married first?"
"A 1883"
"Q Where did you get a farm?"
"A Right North of Bill Howe's
"Q Owned it ever since?"
"A YES SIR."

This testimony also shows that Preston G. Browning not only owned a farm at all times since 1884 together with improvements thereon, but that he owned lumber yards in the Cherokee Nation right along all the time having about thirty thousand dollars invested in lumber yards. We take it that prior to the passage of the Curtis Bill on June 28, 1898 the Department is aware of the fact that non citizens could not engage in the lumber business in the Cherokee Nation and that no person except a recognized citizen of the Cherokee Nation could carry on a lumber or mercantile business.

The testimony of H. C. Miller of Seneca, Missouri, on page 13 of the Levi C. Flint Record shows the following facts in connection with Brownings lumber business:

" Q Do you know when Mr and Mrs Browning first began making improvements in theCCherokee Nation?"
"A Why, they established a lumber business at Prairie City in '85."
"Q When the next lumber yard?
"A The next lumber yard was at Chelsea in '87."

Prairie City and Chelsea are both located in the Cherokee Nation.

The testimony of John Weaver (Page 15-16 Levi C. Flint Record) shows that in 1874 when Levi C. Flint went to the Quawpaw Agency in Indian Territory and resided until 1879, that he left his farm in the Cherokee Nation and that he also left some cattle with Weaver and that he weaver kept them and took care of them for Flint for about ten years when weaver bought them from Flint. Especial attention is invited to this record which is as follows:

"" Q What if any property did he leave in the Cherokee Nation when he left?"
"A He left a horse and a cow and a yearling?"
"Q He left the cow and the yearling with you did he?"
"A Yes sir."
"Q What did you do with them?"
"A I left them until they had increased to thirteen head and I bought them from him."
"Q How long did that take?"
"A It must have taken something like eight or ten years; it was so long I couldn't tell exactly how long it was"

The testimony of this witness also shows that the house owned by Mr Flint on his farm was forth $400.00 or $800.00.

The testimony of Weaver also shows that in a conversation it developed that Levi C. Flint and his wife intended to finally return to the Cherokee Nation. On page 17 of the record the Commission asked weaver the following question:

Q When he left his cow and calf with you did he say anything about coming back?"
"A Yes sir, that was his intention."
"Q What did he say?"
"A-- He wanted me to keep the cow and calf until he came back."
"Q What did he say to you?"
"A Why he just simply told me to take the cow and calf until he came back, for me to take it for him, that was our understanding?"
"Q How much of a farm did he have there?"
"A I think there was about eight or ten acres; that was a pretty good farm them days."
"Q In cultivation was it."
"A- Yes sir."
"Q What time of the year did he move?"
"A I think it was in the fall of the year."

The record shows in this case the following case in a nutshell: The mother of these minor applicants came to the Cherokee Nation in time to qualify under the Cherokee Shawnee Agreement and established her residence and citizenship in the Cherokee Nation prior to June 7th 1871 and having done so she became a citizen of the Cherokee Nation with all of the rights and privileges of a Native Cherokee Indian. New in 1874 she moved across the line out of the Cherokee Nation into the Quawpaw Agency where her father was employed as a blacksmith for the United States Government doing the work for the Indians, still residing in the Indian territory and according to the testimony of her father he gave up this government position in 1879 and moved across the line into the State of Missouri locating at Seneca, Newton County, Missouri, a town on the Missouri State Line and within a stones throw of the Indian Territory Line where her father Levi C. Flint has continued to reside. The record is not clear as to when Mrs Browning went to Seneca, Missouri to live and from the record one would presume that she went to Seneca in 1879 with her father, but, while it is not in the record, a retrial of this cause would show that she continued her residence in the Quawpaw Agency in the Indian Territory from 1874, with the exception of five months, until October 1883 when she was married to Preston G. Browning.

The testimony of Preston G. Browning shows that after he was married to the mother of the minor applicants on October 7th 1883 that he and his wife took up a farm in the Cherokee Nation in the following year 1884, and that he has owned a farm at all times since the year of 1884, he commenced the lumber business in 1885 and ever thereafter maintained a number of lumber yards in the Cherokee Nation having thirty thousand dollars invested in his lumber business.

We desire to urge a number of points in favor of the minor applicants in this case:

I The Yeargain Case.

In the Yeargain cases(Scott A Yeargain et al and Joseph D Yeargain) the applicants in these cases were born within the limits of the Cherokee Nation, and duly enrolled upon the several tribal rolls. They had however, in 1895 and 1896 respectively, removed to Southwest City Missouri, just beyond the border of the Cherokee Nation. From that time to the date of their applications for enrollment they lived in Missouri and were residing there on June 28, 1898, the date of the passage of the Curtis Act. Some of them had business interests in Missouri and voted at Different elections in that state. They retained however,, the control of their tribal property and business interests in the Cherokee Nation and voted also at the Cherokee elections. The Commission to the Five Civilized Tribes decided that they were not bona fide residents of the Cherokee Nation on June 28, 1898 as contemplated by that portion of the Curtis Act which reads as follows:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship,"

and thereforenot entitled to citizenship or enrollment in the Cherokee Nation. This decision was approved by the Honorable Secretary of the Interior, but the cases were afterwards re-opened and submitted to the Honorable Assistant Attorney General for the Department of the Interior, who held in subtsance that abandonment by a citizen of his domicile was a question of intention; that the matter of residence in the Cherokee Nation was governed by the Cherokee Constitution, which provides:

" Whenever any citizen shall remove with his effects out of the limits of this nation and become a citizen of any other Government all his rights and privileges as a citizen of this nation shall cease."

and that paragraph 11, section 21, of the Curtis act, above quoted, was not applicable to the facts in these cases. Acting upon this opinion of the Honorable Assistant Attorney general for the Department of the Interior, the Honorable Secretary of the Interior reversed the decision of the Commission to the Five Civilized Tribes and ordered that the applicants be enrolled.

In the case at bar three things were necessary for her to do under the Cherokee Constitution in order to abjure her citizenship in the Cherokee nation to wit:

1st Removal from the Cherokee Nation;

2nd. Taking with her, her effects, and

3rd Becoming a citizen of another government.

Mrs Browning simply went to Seneca Missouri where she remained only a short time after reaching her majority under the tribal laws and was married to Preston G. Browning and she at once established a farm in the Cherokee Nation. The testimony of Mr Browning shows that the farm was acquired the year following their marriage. It was held by the Department, if the writer remembers correctly, in the case of Ezekiel C. McLaughlin, and in the case of Mary J. Willison, one a resident of the Choctaw Nation and the other a resident of the Creek nation in Indian Territory that residence in the other tribes of Indian territory by a Cherokee Citizen whould not tend to abjuration of citizenship in the Cherokee Nation because it was impossible for a Cherokee to become a citizen of one of the other Governments in Indian territory. Mrs Browning could not by any means ever become a citizen of any of the tribes of the Quawpaw Agency. Therefore one of the requirements of the Constitution for a forfeiture of citizenship could not be complied with or urged against Mrs Browning while she was a resident of the Quawpaw Nation. When she went to Missouri taking all of her acts into consideration it can not be consistently urged that she intended to become a citizen of Missouri and forfeit her rights in the Cherokee nation: WHAT DID SHE DO? Within one year after her marriage she owned a farm back in the Cherokee nation and continued to own a farm until her death. Within two years after her marriage her husband engaged in the lumber business and continued that business until his death? Her intentions are shown by her acts?

After Mrs Browning was married to her husband she continued to identify herself with the Cherokees by having her name placed upon all of the subsequent rolls; by immediately taking up and having improved a farm and by owning a farm continuously since 1884 the year following her marriage and by her husband conducing a large lumber business in the Cherokee nation since 1885. These acts show quite well that she never intended to abandon her tribe and become a citizen of the state of Missouri. She never took the oath of allegiane to the United States or did anything that could be held to indicate that she intended to abandon her citizenship in the Cherokee nation. We submit that her case is parrallel with the Yeargain cases and if she was alive we believe she would be entitled to be enrolled and if she would be entitled to be enrolled certainly her minor children now ought to be enrolled.

ii THE CLEMENT G. CLARKE CASE

Clement G. Clarke was a whiteman and a resident of Connecticutt. In 1891 he married, according to Cherokee Law, one Martha Cobb, a citizen by blood of the Cherokee Nation. Immediately after his marriage he went with his wife to the State of Connecticutt, where he attended College. On Graduating he took charge of a church there, having entered the ministry. He never resided in the Cherokee Nation, but made his home in connecticutt and exercised the rights of citizenship in that state. His wife and children made their home with him. Mrs Clarke however continued to own a farm, improvements and personal property in the Cherokee Nation. The Commission to the Five Civilized Tribes denied their application for enrollment as members of the Cherokee Nation on the ground of non residence, holding that Clarke had never established a residence in the Cherokee Nation, and that the residence of his wife and children was that of the husband and father. This decision was approved by the Honorable Secretary of the Interior as to Clement G. Clarke, but reversed as to his wife and children, the Department holding that by no act of hers had Mrs Clarke abjured citizenship; that she had never voluntarily dissolved her relations with the Cherokee People, as indicated by the retention of her tribal property, and that the CITIZENSHIP OF THE MINOR CHILDREN WAS THAT OF THEIR MOTHER.

We believe the case at bar is a stronger case than that of the wife and children of Cl ment G Clarke and if Mrs Clarke and her children, residing in the State of Connecticutt were entitled to be enrolled certainly by a parity of reasoning the minor children of Mrs Browning, deceased, are entitled to be enrolled now.

Opinion of Assistant Attorney General Little.

By reference to page 204, Appendix No 16, Eighth Annual Report of the Commission to the Five Civilized Tribes to the Secretary of the Interior for the Fiscal year ending June 30, 1901, it will be seen that the Honorable Assistant Attorney General for the Interior Department discusses the very question that is at issue in the case at bar, the constitutional question of a forfeiture of Cherokee Citizenship and among other things the Honorable Assistant Attorney General said:

"It remains to be seen how a citizen of the Cherokee Nation may expatriate himself. ' The right of expatriation is inalienable and extends to individuals of the Indian race'. (United States Ex Rel Standing Bear Vs Crook 5 Dill., 453). The term includes more, however, than merely change of domicile. There must be a renunciation of allegiance to the one and the purpose of making a home and becoming a citizen of another country. But leaving the ordinary rules of International Law, the Cherokee Constitution has destinctly ~~[illegible]~~ provided and defined what shall constitute expatriation from that Nation: 'Whenever any citizen shall remove with his effects out of the limits of this nation and become a citizen of any other government, all his rights and privileges as a citizen of this nation shall cease', He must not only remove his effects, but he must become a citizen of another Government."

"It remains to be seen how an alien, and more especially how a dependent alien may become a citizen of the United States. It may be said Generally that an alien may become a citizen of this country in one way only, which is a strictly judicial act-- that of naturalisation."

"By the sixth section of the Act of February 8, 1867 (24 Stats., 388-390), it was however provided, that:

' Every Indian born within the Territorrial limits of the United States who has voluntarily taken up within said limits his residence separate and apart from any tribe of Indians therein and has adopted the habits of civilised life is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges and immunities of such citizens, whether said Indian has been or not by birth or otherwise a member of any tribe of Indians within the Territorial limits of the United states, without in any manner impairing or otherwise affecting the rights of any such Indian tribal or other property!"

"the intended operation of this act is in direct conflict with the Constitution of the Cherokee Nation. That constitution provides, as has been seen, that any member of the tribe who shall become a citizen of any other country thereby forfeits all of his rights and privileges as a citizen of that nation, and one of the rights so forfeited would be the right to share in the distribution of tribal property. Yet the act above quoted provides distinctly that no right to tribal property shall be forfeited thereby"**********

"The controlling purpose of the statute above referred to was to offer inducements to Indians to break up their tribal relations as a step in the direction of a higher civilization. This purpose would have been defeated had it not been for the guarantee that his tribal rights should be protected." **********

In the case of Elk Vs Wilkins (112 U S., 94) it was said "Indians born within the territorial limits of the United States, members and owing immediate allegiance to one of the Indian Tribes (an alien, though dependent power), although in a geographical sense born in the United States, are no more 'born in the United States and subject to the jurisdiction thereof' within the meaning of the first section of the Fourteenth Amendment than the children of subjects of any foreign government born within the United States of ambassadors or other public ministers of foreign nations."

THE CURTIS ACT.

In giving its instructions to the Commission to the Five Civilized Tribes in directing the enrollment of Cherokee Citizens, in paragraph 1 of section 21 of the Curtis Act, Congress, among other things directed the Commission as follows:

"And they (meaning the Commissioners to the Five Civilized Tribes) shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

It will be noted that Sarah E. Browning has been enrolled on Wallace Roll of Cherokee-Shawnees; the Cherokee-Shawnee Pay roll of 1896 and as an adopted Shawnee on the Cherokee Census roll of 1896; all of the applicants are identified on the Dickson roll of Cherokee Shawnees; the Cherokee Shawnee pay roll of 1896, and as adopted shawnees on the Cherokee census roll of 1896.

Can it be said that these names are on these subsequent rolls "by fraud or without authority of law" The Cherokees have always recognized P. G. Browning and the members of his family as citizens of the Cherokee Nation; the record shows that he has been permitted to vote at all of the Cherokee elections, to own and hold property in the Cherokee Nation without any question ever being raised against it by the Cherokee Nation and that Mrs Brownings name having been placed on the Cherokee Shawnee Register of 1871, the Cherokees never considered that she had ever forfeited her right to be enrolled for the reason that they permitted her name and the names of the members of her family to be placed upon the subsequent rolls of the Cherokee Nation. The fact that the name of Mrs Browning appeared upon the Shawnee register of 1871 was sufficient authority of law to warrant her enrollment by the Cherokee Census takers in 1896. These subsequent rolls show that the Cherokees never considered that Mrs Browning forfeited her right under the Cherokee Constitution.

THE CHEROKEE LAW.

The Departmental Letter of June 5, 1908 (D. C.28677-1905) with reference to the age of Mrs Browning of page 3 says:

" It therefore appears that she was born about the year 1860."

The Cherokee Law does not fix the date when a female citizen of the Cherokee Nation is deemed to be of lawful age; in the law of the distribution of property she is authorized to receive property at the age of eighteen years but the law does not state when she is of lawful age. This law relating to the distribution of property is found on page 260 of the Compiled Laws of the Cherokee Nation, (1892) but no where in the compilation of the laws of the Cherokee Nation of 1892 do we find where the law provides that a female is of age, or of lawful age at eighteen years. The Department discussed this question fully in the Cherokee enrollment case of Ora M. Bonds (nee Camp) and in that case gave Mrs Bonds the benefit of the doubt and ordered her enrolled. Mrs Bonds, whose maiden name was Ora M. Camp was admitted to citizenship in the Cherokee Nation but did not remove to the Cherokee Nation until about the year of 1900 at which time she was, if we remember correctly, just twenty-one years of age. It was contended that she had forfeited her right to be enrolled as a citizen of the Cherokee Nation by reason of her failure to locate in the Cherokee Nation within six months after she became of lawful age under the provisions of the act of the National Council of the Cherokee Nation dated December 4, 1894:

"Be It Enacted by the National Council, that all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months after the passage of this act, or from the date of readmission of persons hereafter readmitted, or no rights whatever shall accrue to such persons by reason of such readmission: PROVIDED, THAT NOTHING IN THIS ACT SHALL BAR MINORS AND ORPHANS."

For the purpose of showing that Mrs Bonds was not considered of lawful age until she had reached the age of Twenty-one years reference is made to the Departmental decision in the case of Ora M. Bonds, an applicant for enrollment as a citizen of the Cherokee Nation.

There is a saving clause in the Cherokee law on Limitations of actions found in sections 228 and 229 pages 136 and 137 Compiles laws of the

Cherokee Nation, 1892--

"Section 228. Judgment shall not be rendered for the recovery of any improvement upon the Public Domain in any suit brought before the courts of this Nation, unless such suit be instituted, as required by law within three years next after the time at which the right of bringing suit for the recovery thereof, or the cause of action shall have accrued to the person claiming the same, or to the person through whom he claims, saving to minors and persons ônon compos mentesô THE THREE YEARS NAMED ABOVE AFTER THE REMOVAL OF THEIR DISABILITIES."

"Section 229. Judgment shall not be rendered upon any written contract, obligation or note of hand, in any suit brought before the courts of this nation, unless suit be instituted thereafter as required by law within five years next after the time at which the cause of action shall have accrued to the person bringing the same, or to the person through whom he claims, SAVING TO MINORS AND PERSONS NON COMPOS MENTES, THE THREE YEARS ABOVE NAMED NEXT AFTER THE REMOVAL OF THEIR DISABILITIES."

It appears therefore that when a minor becomes of lawful age, taking the above two sections together that they have three years after reaching their lawful age before the statute of limitation commences to run against minors and they then have three years after the expiration of the three years following the removal of their disabilities ~~xxx~~ in which to institute suits for the recovery of improvements upon the public domain of the Cherokee Nation and five years after the expiration of the three years in cases of suits upon written contracts etc.

Reading these two sections together then and applying them to the case at Bar, Mrs Browning according to the record was twenty one years old in 1881, she had three years thereafter given her by the saving clause in the two sections above quoted or until she was twenty-four years old which would have made it in the year of 1884 before the statutes of limitation would have commenced to run against her~~x~~ and if she desired to bring a suit for the recovery of her fathers former home, had it been owned by her or she had any interest in it she would have been allowed until 1887 in which to have instituted suit for same; ~~or~~ if she desired to file a suit on a note or written contract she would have been allowed until 1889, according to the record and the Cherokee Law.

The record in this case shows that Mrs Browning was married in 1883 (October 7) at which time she was probably twenty-three years old and that from the testimony of P. G. Browning she and her husband acquired a farm the following year in the Cherokee Nation. We believe that under the Cherokee law she reasserted her right by acquiring a farm in 1884.

The attention of the Department is called to the Cherokee Enrollment case ofNancy Gunter who never lived in the Cherokee Nation and who has been enrolled. The time Nancy Gunter acquired property in the Cherokee Nation compares favorably with the case at bar.

CONCLUSION.

Taking this case as a whole, we do not believe that the time Mrs Browning has resided in the Quawpaw Indian reservation in Indian Territory should be counted as against her; this has not been the rule in these Cherokee enrollment cases; then from the record one would presume that Mrs Browning resided in Seneca Missouri from 1879 until her marriage, or a period of four years; that she was of age in 1881 and acquired a farm in the Cherokee Nation within three years thereafter. The testimony of Preston G. Browning (Now deceased) shows positively that the farm was acquired in 1884, and the other testimony shows the lumber yard business was commenced in 1885. We contend that the names of Mrs Browning and her children on the subsequent rolls including the Cherokee Census roll of 1896 are rightfully thereon and were not placed thereon by fraud or "without authority of law."

We do not believe that the Brownings ever intended to remain citizens of the state of Missouri; we see no act of Mrs Browning that would lead us to such a conclusion but her acts indicate to our minds strongly the contrary presumption. She secured her farm as soon as it was possible for a poor girl without means and she continued thereafter to be the owner of a farm in the Cherokee Nation from 1884 until her death and her children still own improvements on a farm which they desire to take in allotment for themselves. They are now themselves both minors and orphans.

We contend that the ruling of the Honorable Assistant Attorney General for the Interior Department ~~in the Interior~~, taking into consideration the Cherokee Law, the residence of the ~~xxx~~ motherof applicants in the Quawpaw Reservation which the Department knows is in Indian Territory, the age of Mrs Browning, the date of hermarriage, her poverty prior to marriage, and the fact that she acquired a farm in 1884, and that her name appears upon all of the subsequent rolls including the 1896 census roll, that it is not shown by her acts that she ever intended to become

a citizen of Missouri, ought not to apply to the case at bar under all of the circumstances of the case, as it was applied in the case of Lydia K. Spencer.

We believe that the question of the date of making the first farm in the Cherokee Nation in 1884 is settled by the testimony of Preston G. Browning who ought to know better than any one else when this farm was improved-- the other witnesses were indefinite on this point and Mr. Browning was in a better position than any one else to know about this.

We believe the Minor applicants are entitled to be enrolled as citizens of the Cherokee Nation and therefore earnestly move the Department to review its decision of June 5, 1905, believing that a review of this case will show that the applicants are entitled to be enrolled.

Respectfully,

Bulger, Starr & Patten,

By J C Starr

Attorneys for Applicants.

Motion For Rehearing

Comes now the applicants and move the Department to grant them a rehearing in this cause in order to permit them to introduce testimony upon the following points:

First. To show that Mrs Browning has resided in the Quawpaw Agency in Indian Territory continusously from 1879 until 1883.

Second: To show that she owned an interest in the cattle etc that were left with Weaver and that she owned said interest in cattle in the Cherokee Nation until about the year 1884

Third. To introduce as evidence three deeds to townlots in the town of Ross Ville in the Cherokee Nation issued by Joel B. Hayes Principal Chief on August 18, 1888 to P. G. Browning a citizen of the Cherokee Nation for the purpose of showing that only recognized citizens of the Cherokee Nation could purchase town lots in the Cherokee Nation at that

recognized Browning as a citizen of the Nation, otherwise they would not have sold him the town lots and the Principal Chief would not have issued him a deed under the Cherokee Law as it existed at that time.

In support of this motion we attach the three deeds issued by Joel B. Mayes Principal Chief to P C Browning and if this showing is not sufficient with the deeds attached we will supply affidavits to show by whom we can prove the points we say in our first and second reasons for this motion.

We attach this motion for rehearing , in order that the applicants rights be protected in view of the pending legislation on the question of the time given for filing motions for rehearings etc in citizenship cases and request that our motion for review be passed upon first and then if it is necessary we will file the affidavits upon the points mentioned.

Respectfully,

Bulger, Starr & Patton,

By J. C. Starr

Attorneys for Applicants.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Thomas M., Ben F., and Queen E. Browning as citizens of the Cherokee Nation of Shawnee blood.

Protest.

The Cherokee Nation respectfully protests against the Decision of the Commission to the Five Civilized Tribes in the above case and asks that the record be forwarded to the Honorable Secretary of the Interior for Review.

Our objections are:

That these people were born in the state of Missouri where their father exercised the right of citizenship;

That they never lived in the Cherokee Nation during their lives.

That neither their mother nor father ever lived in the Cherokee Nation in good Faith and became bona fide citizens thereof.

Respectfully,

Attorney for the Cherokee Nation

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-314.

Muskogee, Indian Territory, July 16, 1902.

W. W. Hastings, Esq.,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith inclosed the decision of the Commission to the Five Civilized Tribes, rejecting the application of Preston G. Browning for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his three children, Thomas E., Ben F., and Queen E. Browning, as citizens by Shawnee blood of the Cherokee Nation.

The decision, with a copy of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Inc. H-37.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 314.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, October 7, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date July 16, 1902, rejecting the application of Preston G. Browning for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his three minor children, Thomas E., Ben F. and Queen E. Browning, as citizens by Shawnee blood, of the Cherokee Nation, was affirmed by the Secretary of the Interior on September 13, 1902.

Respectfully,

Acting Chairman.

MDG

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-314
(R-678)

Muskogee, Indian Territory, November 16,1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 14, 1903, granting the application for the enrollment of Thomas E., Ben F. and Queen E. Browning, as citizens of the Cherokee Nation of Shawnee blood.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman.

Enc. V-12.

REFER IN REPLY TO THE FOLLOWING:

GAW

DEPARTMENT OF THE INTERIOR,

Land
43252-1906.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

June 11, 1906.

W.W.Hastings, Esq.,

Attorney for the Cherokee Nation,

Tahlequah, Ind.Ter.

Sir:

On May 11, 1906, the Office forwarded your communication of May 2, 1906, with reference to a motion to re-open the case of Thomas E. Browning, et al, for enrollment as Cherokees to the Department.

The Office is now in receipt of Department letter of May 17, 1906, requesting that you be informed that the Department disposed of the motion mentioned in your letter on April 30, 1906. On that date the Department returned the record to the Commissioner to the Five Civilized Tribes, with instructions to make disposition of the case in accordance with the provisions of section 2 of the Act of April 26, 1906, Public 129.

Very respectfully,

C.F. Larrabee,

Acting Commissioner.

GAW-GH.

REFER IN REPLY TO THE FOLLOWING:
Cherokee R 678

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

Muskogee, Indian Territory, February 23, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:-

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 23, 1907, denying the application for the enrollment of Preston G. Browning as a citizen by intermarriage of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Commissioner.

Encl. R-86
BLE

Registered

D 314

IN THE MATTER OF THE APPLICATION OF

Preston G. Browning

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

IN THE MATTER OF THE APPLICATION OF

Preston G. Browning Jr.

FOR ENROLLMENT AS

CHEROKEE CITIZEN

A. Original testimony. September 17. 1900
B. Memo application. " 17. 1900
C. Marriage License and certificate
D Notice of final consideration
E Receipt for testimony

Certified copy of marriage license.

Supplemental testimony and order closing testimony, Feb. 24, 1902

Transferred to R-678

D

Cher D 315

Department of the Interior,
Commission to the Five Civilized Tribes,
[illegible], I.T., Sept. [illegible] 19, 19[illegible].

[illegible] applicant herein, Levi C. Flint, for the enrollment [illegible] of Indians; being sworn and [illegible] testified as follows:

[illegible] quite deaf, applicant is questioned through his son, [illegible] Flint:

Q What is your name? A Levi C. Flint.
Q What is your age? A About sixty-eight.
Q What is your post-office address? A Tahlequah, Missouri.
Q Are you a recognized citizen of the Cherokee Nation? A I have been.
Q Who do you apply for for enrollment? A Myself and wife.
Q Are this how long have you been living in the Cherokee Nation?
A About four years I guess.
Q Where does you live now? A Tahlequah, Missouri.
Q How long have you lived there? A About nineteen years.
Q What is your wife's name? A Stella A.
Q When did he marry her? A November 1883.
1896 roll page [illegible] #147 Levi Flint Delaware District;
1896 roll page [illegible] #148 Stella A. Flint, Delaware District.

Examined by Cherokee Attorney, I.T., who says:

Q Are this if you ever took a farm or an allotment up with the Indians of the Quapaw Agency? A No I had no right.
Q Are this when he first moved from in the Cherokee Nation?
A I rented a sort of a farm in 1871 in 1872, and then I didn't own any more until I got this last one; it has been about five or six years.
Q When from you removed out of the Cherokee Nation you removed all of your effects? A I had to, I had to move my family.
Q And have lived continuously outside ever since? A Yes sir.

Counsel for the Tribe: The name of Levi C. Flint and his wife Stella A. Flint appear in the registered list of Cherokee Indians who removed to and located in the Cherokee Nation in accordance with the 15th article of the Cherokee Treaty with the United States of 1866 as 3313 and 3314; both names also appear upon the census roll of 1896; but are duly contested herein. Because of matter of residence their cases will be suspended, and their names placed upon the doubtful card.

[illegible], being first duly sworn, testified as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 19 day of September 1900.

J B Rice
Commissioner.

D. 315.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1903.

In the matter of theapplication ofLevi C. Flint for the enrollment of himself and wife as citizens of the Cherokee Nation.

Applicant represented by S. S. Clover, Vinita, I. T.
Cherokee Nation represented by W. W. Hastings.

P. G. BROWNING, being duly sworn, testified as follows:

COMMISSION: What is your name? A P. G. Browning.
Q Where do you live, Mr. Browning? A Seneca, Missouri.
MR. CLOVER: What relationship exists between you and Levi C. Flint, this applicant, and Stella Ann Flint, his wife? A Father-in-law and mother-in-law.
Q How long have you known both parties? A Well, I have knowed them about twenty years.
Q In what tribe of Indians or nation do they belong? A Cherokee-Shawnees.
Q Do you know whether they was ever enrolled on what was commonly known as the Wallace roll? A Yes, sir, they are enrolled.
Q Do you know that they received any payment under that roll? A Yes, sir.
Q Do you know they was on the Dixon roll? A Yes, sir.
Q Do you know whether they received any payment on that roll? A Yes, sir.
Q Do you know if either of them or both of them or anyone at all ever received any allotment of land in the Quapaw Agency? A No, sir, they never received any.
Q Did they receive any payment there as an annuity payment from any of those tribes? A No, sir.
Q What position did Levi Flint occupy in the Quapaw Agency? A He was blacksmith, government blacksmith.
MR.HASTINGS: When did he cease to be a government blacksmith over in the Quapaw Agency? A I expect——let me see now if I can—— I think it must have been in 1880.
Q Did he move from there to Seneca, Missouri? A Yes, sir.
Q Has lived there ever since? A Yes, sir.
Q Lives there now? A Yes, sir.
COMMISSION: The following names appear upon the pay roll of Cherokee-Shawnee citizens of the Cherokee Nation as disbursed by D. W. Lipe, Treasurer of said Nation, authorized by an act of the Cherokee National Council approved March 30, 1896: Levi Flint and Stella C. Flint, Nos. 344 and 345, respectively.
The attorney for the applicant will be granted fifteen days in which to supply the Commission with certified copies of the Wallace and Dixon rolls of Cherokee-Shawnees.
COMMISSION: You submit this case to the Commission for final consideration?
MR.CLOVER: Yes, sir.
COMMISSION: The attorney for the applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for decision upon the evidence now filed, in addition to the certified copies of the rolls above requested.

———000———

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 25th day of February, 1902.

Commissioner.

D315

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 9, 1902.

In the matter of the application of
Levi C. Flint for enrollment of him-
self and wife as citizens of the
Cherokee Nation.
Cherokee D. 315.

Brief on behalf of the Cherokee Nation.

-:-

In some respects the brief for the applicant in this case filed by S. S. Clover is quite remarkable. He contends that the applicants are entitled under the laws of the Cherokee Nation, and later claims that the constitution and laws of the Cherokee Nation are not enforceable because of certain provisions of the Curtis Bill; and then he argues that the Curtis Bill itself is unconstitutional, notwithstanding that the Supreme Court of the United States in the case of Stephens vs the Cherokee Nation, 174 U. S., page 446, declares that the entire act is constitutional. The brief is also remarkable for its reference to the evidence of D. W. Bushyhead, supposed to have been taken before the Kerens-Clifton Commission in 1896, but never made a part of the record in this case, and not before this Commission for consideration. Just why any attorney admitted to practice before the Commission would attempt to such a practice as this is not apparent.

Levi C. Flint and his wife, the applicants, came to the Cherokee Nation under the Shawnee treaty of 1869, and at that time were entitled to "all the rights of native Cherokees" as stated in that treaty; they had no higher or greater rights than a Cherokee by blood had at that time, and were to all intents and purposes Cherokee citizens by blood. And right here the representative of the Cherokee Nation desires to insist and to urgently call the attention of the Commission to the fact that because a person applies as a Shawnee citizen he has no greater right than a Cherokee by blood. It makes no difference

how his right of citizenship was acquired:- whether it was by inheritance, or by treaty, or by the payment of a stipulated sum, the right once acquired is the same, and we contend could be forfeited by one ~~xxxx~~ and all classes of our citizens alike. The applicants lived in the Cherokee Nation a very short time when they removed to the Quapaw agency where Levi C. Flint was employed for only a short time as a government blacksmith; and he removed to Seneca, Missouri, about the year 1880 where he has since resided. The testimony of Levi C. Flint himself is to the effect that he took all of his property from without the limits of the Cherokee Nation, leaving nothing whatever behind him, not even an impovement upon the public domain, as counsel for the applicants argues in his brief. The applicant testifies that he abandoned a small claim that he had left upon the public domain, and that he never acquired another until some four or five years ago, hence for a period of more than twenty years he had no improvement whatever upon the public domain of the Cherokee Nation, and was a resident of the state of Missouri with his family and all his effects.

The names of the applicants are not found upon the authenticated roll of 1880, and we contend that that was an adjudication of their status at that time by the Cherokee National council which had full jurisdiction over determining the question of citizenship in the Cherokee Nation. And in as much as applicants had prior to that time removed from out the limits of the Cherokee Nation together with their effects and were residents of the state of Missouri the National Council properly determined that there were not citizens of the Cherokee Nation, and were not entitled to be enrolled upon the authenticated roll of 1880. We contend that the act of Congress commonly known as the Curtis Bill confirmed this roll, and that it was the intention of this act of Congress that where an applicant's name did not appear upon the roll of 1880 when he was old enough

for his name to have been placed upon that roll, to require the applicant to show that he was subsequently re-admitted to citizenship by the National Council or court of competent jurisdiction.

Counsel contends that there would be a forfeiture of property rights on the part of applicants, but the Supreme Court of the United States in the Stephens case hereinabove recited decided that "A mere expectation of a share in the public lands and moneys of these tribes can not be held to amount to such an absolute right of property that the original cause of action, which is citizenship or not, is placed by the judgment of a lower court beyond the power of re-examination by a higher court", or in other words that the right of citizenship was not a property right, but that property rights flowed from rights of citizenship; and that the former rights should not be considered in considering the question of citizenship. Practically the same question was decided by the Supreme Court of the United States in the case of Roff vs Barney found in 168 U. S., page 219, where the court decided that "The citizenship which the Chickasaw legislature could confer it could withdraw". But of course if it involved vested property rights this could not be done. Hence the court must have concluded that the right of citizenship was not a property right.

The applicants, as above observed, were at one time recognized Cherokee citizens with all the rights of Cherokees by blood; but they removed from without the limits of the Cherokee Nation, and forfeited their citizenship both under the constitution and laws of the Cherokee Nation and the provisions of the Curtis Act, Section 21, giving this Commission jurisdiction, which says as follows: "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship". And inasmuch as this entire act has been ~~confirmed~~ declared constitutional by the

Supreme Court of the United States we do not deem it necessary to follow the constitutional argument of counsel for applicants in this case.

The exhibits attached to the brief showing the enrollment of the applicants on the 1896 roll are not admissions to citizenship in the Cherokee Nation; and they are nothing more nor less than census rolls, never authenticated by the Cherokee National Council, and therefore have no binding effect upon the Cherokee Nation, nor should they be persuasive to the Commission. The last question asked applicant himself while on the stand was: "Have lived continuously outside ever since? Answer: Yes sir".

The representative of the Cherokee Nation is unable to see upon what theory the applicants should be enrolled. they are not residents of the Cherokee Nation and have not been for more than 25 years; but have been continuous residents of the state of Missouri; and if they were Cherokees by blood under the Cherokee constitution they would have forfeited their rights of citizenship in the Cherokee Nation, and these people having no greater rights than Cherokees by blood the Cherokee constitution applies equally to them; and they should not be enrolled as citizens of the Cherokee Nation.

Respectfully submitted,

[illegible]

Attorney for the Cherokee Nation.

IN RE

APPLICATION OF LEVI C. FLINT

ET UX., STELLA A. FLINT, TO

ENROLLMENT AS CHEROKEE CITI-

ZENS.

BRIEF ON BEHALF OF APPLICANTS.

In re In re |
Application of Levi C. Flint, |
et ux., Stella A. Flint, to |
enrollment as Cherokee citizens. |

Brief on Behalf of Applicants.

STATEMENT OF FACTS.

In the case of Levi C. Flint and Stella A. Flint, the prinple facts are as follows:-

They were Shawnees who were included in the agreement of June 7th., 1869 between the Shawnees and the Cherokees whereby the former on the payment of a certain per capita assessment were adopted into the Cherokee Nation and thenceforth had all the rights and privileges of any other Cherokees.

These claimants moved into the Cherokee Nation where they had a farm and where they remained ~~until~~ from 1871 ~~or 1872~~ until 1874. That at this last named date the said Flints moved to the Quapaw Agency where said Levi C. Flint was employed as a government blacksmith. That he remained at the Quapaw Agency as said government blacksmith until the year 1880 when he moved to Seneca, Missouri, where he has lived to the present time. That he now owns a farm in the Cherokee Nation and has owned it for a number of years; that he has made valuable improvements thereon; That the said Flints never received any allotment or annuity while at the Quapaw Agency and never applied for enrollment among the Indians of the Quapaw Agency, nor in any other tribe or nation than that of the Cherokees and that they were never recognized as belonging to any such tribe or nation other than the Cherokee Nation as aforesaid.

That said Flints ever since their removal from the Quapaw

Agency where said Levi C. Flint was in Government employ as aforesaid, have been living in Seneca, Missouri, within eight miles of the Cherokee Nation; that upon the adoption of the Shawnees into the Cherokee Nation the said Flints paid their per capita assessment amounting to $1749.65.

A R G U M E N T .

The questions now at issue are; Are Levi C. Flint and Stella C. Flint entitled to enrollment as members of the Cherokee Nation and to an allottment of the lands and funds of the Nation as members thereof?

There can be no doubt that had the matter of allottment been raised shortly after the adoption of the Shawnees into the Cherokee Nation, there would have been no question about the rights of these claimants in the premises. They were entitled to all the rights, benefits and privileges of Cherokee citizens and would have been entitled to the same per capita distribution and allottment as Cherokees by birth. Cherokee Nation vs Blackfeather. 155 U. S. 218.

The question then arises, what, if anything, have these claimants done to lose their citizenship? The attorney for the Cherokee Nation relies upon Section 2 of Article I of the Cherokee constitution and part of Section 21 of the Act of June 28, 1898, known as the Curtis Act as sustaining his contention that these claimants have lost their rights to citizenship and are not entitled as Cherokees.

The section of the Curtis Act alluded to reads as follows: "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship". What is the bearing of this section on the case at bar? These claimants have surely complied with the act of Congress. They have removed to the Cherokee Nation and have

showed their eminently good faith by paying the substantial sum of $1769.60 into the Cherokee Nation for the right to settle. This requirement of Congress has been fully complied with, therefore, and if nothing else stands in the way it is the duty of the Department to enroll these names.

If congress had intended a removal to the Nation within some specified time prior to the passage of the Act it would have so specified and the Department cannot read into this law any such radical requirement not therein found ~~as would make the removal of these claimants into the Cherokee Nation prior to the 16th day of June, 1898, as being inefficient because of the elapse of time since said removal.~~ The intent of Congress is clear. They intended to prevent claims being made by those who had no right by blood and those who have never shown any disposition to become members of the Cherokee Nation, who have never done anything to benefit the Nation and whose claims are advanced in a purely speculative way, these claimants on the contrary have purchased their right to distribution by paying a large and substantial sum for their rights and should not be deprived of the same upon any mere technicality or legal quibble advanced on behalf of the Cherokee Nation, who having received the money of these claimants now attempts to prevent them from sharing in a proper distribution of the lands and funds of the Nation.

Section 2 of Article 1 of the Cherokee Constitution reads as follows: "Whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other government all his rights and privileges as a citizen of this Nation shall cease". The attorney for the Cherokee Nation contends that this section has operated to deprive these applicants of the rights which they here claim.

Section 28 of the Curtis Act says: "That on and after the passage of this Act the laws of the various tribes or nat

tions of Indians shall not be enforced at law or in equity by the Courts of the United States in the Indian Territory." It is true that the Dawes Commission is not a Court of the United States in the Indian Territory and that this is not a proceeding at law or in equity, but they are as much bound by this expressed intention of Congress in all matters arising for decision in Indian affairs, Congress hereby intending that all such matters are to be decided by the laws of Congress only and not by the action of the Indian law makers. This seems to be a plain proposition and to wipe away the last remaining objection to the enrollment of these claimants.

But suppose for the purpose of this argument that this section of the Cherokee Constitution is to be given full force and authority, what are its provisions and what is its bearing on the case at bar? Three things must concur: First, he must remove out of the Nation; Second, he must remove his effects; Third, he must become a citizen of some other government. These three requirements are in the conjunctive and the conditions therein provided are not fulfilled until all three have been fully carried out. There is no question but that Levi C. Flint and his wife, Stella A. Flint, moved from the Cherokee Nation in 1874 ~~or 1872~~, when he was appointed to a government position at the Quapaw Agency, and that as far as their living within the actual limits of the lands set aside for the said Nation they have not resided there since said date It would seem also from the testimony in this case that they took their chattels with them upon such removal. It is in evidence, however, that for many years, now they have owned a farm in the Nation and that they have improved the same, spending their money to keep it in proper repair, and it is a question well worth considering whether this of itself would not prevent them from losing their right to enrollment as claimed at the present time.

The question of citizenship, however, is the most important one and, as we contend, the controlling one in this case. The claimant must not only have removed out of the limits of the Nation and have taken his effects, but he must also have become a citizen of another government. Has Levi C. Flint fulfilled this requirement? If he has never become a citizen of another government he cannot be deprived of his rights as a Cherokee citizen and his name and that of his wife must be enrolled and they must be given their proper allotments of land and distributive share of money.

The decision of the Supreme Court of the United States in the case of Elk vs Wilkins, 112 U. S. 94, is that an Indian could not become a citizen of the United States. Since then Congress has provided that in certain cases they may become citizens of the United States but the Act of February 8, 1877 and its amendment of March 3, 1901 expressly declare that when an Indian becomes a citizen of the United States his rights as tribal or other property shall not become impaired or otherwise affected.

The only other government of which the said Flints could have become citizens was one of the other Indian tribes. The testimony is clear that the only other tribe with which they have lived at any time and in which they could have obtained citizenship was that of the Indians of the Quapaw Agency. The testimony is undisputed that they never applied for enrollment or annuity there and were never recognized by said Nation in any way as being citizens thereof. If they had acquired any rights in said Nation it was incumbent upon the attorney for the Cherokee Nation to prove such facts, and his failure so to do leaves this question fully determined. The fact that the said Levi C. Flint removed to the Quapaw Agency as a government employee surely could not affect his rights as a member of the Cherokee Nation. It is a fact

perfectly well known to the Department that a Government employee is entitled to retain his citizenship and all his political rights in the jurisdiction from which he comes when appointed to a Government office and why should there be any distinction made between the office holder at his desk in the Department and the office holder serving as a Government blacksmith. We respectfully contend that a blacksmith appointed to the Quapaw Indians in accordance with the treaty with said Indians (7 Statutes at Large, 4[illegible], Art. III) from the Cherokee Nation, is still a Cherokee citizen and entitled to all his rights and privileges as such citizen unless he formally renounce his allegiance and his citizenship and applies for enrollment as a citizen in the Quapaw Nation.

We would also call the attention of the Department to the all significant fact that these claimants have been enrolled upon every roll of the Cherokee Nation that has been made from the time of their adoption into the Nation with the exception of the roll of 1880, not only the rolls prior to that date but a number made subsequently thereto. These rolls have been prepared under the joint authority of the Cherokee Nation and Congress and the Cherokees by their action aforesaid are now estopped to assert that these claimants have no right to such enrollment and that they have lost their citizenship.

We would also call attention to the fact that while these claimants are not now ~~actually~~ living strictly within the limits of the Cherokee Nation, their residence for the last 22 years has been just outside of these limits and that the refusal to enroll them because of their non-residence within the Nation is based upon so technical grounds that the justice, right and equity of the matter demands that they should be enrolled.

We would further call attention to the fact that the sum paid the Cherokee Nation by these claimants for the rights which they now ask should be given them, at a fair rate of interest for the time that the Cherokee Nation has had the same, would amount to a very large sum, to wit, about $4500.00. All remuneration for this large sum provided by these claimants and received by the Cherokee Nation will be lost if upon the strictly technical and, as we contend, insufficient grounds the action of the Dawes Commission is sustained by the Department.

We respectfully submit that these names should be enrolled and that these claimants be given the right to their distributive share in the allotment of land and the distribution of the funds of the Cherokee Nation.

Harry G Kimball
Spurgeon White
Attorneys for claimants.
416 - 5th St NW
Washington DC

Nos.

In re
Applications of Levi C. Flint, et ux., Stella A. Flint; George L. Flint; Gertrude F. Flint; Rebecca L. Laughlin and children; Lydia K. Spencer and children; and Preston G. Browning and children, for enrollment as Cherokee citizens.

Supplemental Briefs on behalf of Applicants.

Carbon Copies for the Attorney for the Cherokee Nation.

HARRY G. KIMBALL,
ATTORNEY AND COUNSELLOR AT LAW,
416 [redacted] FIFTH STREET, N.W.
WASHINGTON, D. C.

ALVAH BUSHNELL CO., LAW STATIONERS, 4 N. 13TH ST., PHILA.

In re
Application of Levi C. Flint,
et ux., Stella A. Flint, for
enrollment as Cherokee Citizens.

SUPPLEMENTARY BRIEF ON BEHALF OF CLAIMANTS.

The contention that it was the intention of Congress that the non-residence of these claimants has operated to deprive them of their rights as Cherokee citizens is negatived by paragraph 8 of Section 21 of the Act of June 28, 1898. In this section Congress provides that where an Indian has claims in two tribes he may elect in which tribe he will be enrolled and where he will receive his allotment. In such a case it is clear that an Indian who claimed rights in the Cherokee Nation and, for example, in the Peoria Nation, could elect to retain his rights as aCherokee although he might be living outside of the limits of the Cherokee Nation and within the limits of the Peoria Nation.

Since the rule of the construction of Statutes requires that all parts of a Statute shall be read together, it follows that this paragraph of said section 21 is to be read in connection with paragraph one under which those claimants ask enrollment. Endlich on Interpretation of Statutes, section 40. United States vs. Landram, 115 U. S. 81, 85. Atkins vs. The Disintergrating Co., 18 Wall. 272, 302. The text books are full of other cases on this point. 23 Am. & Eng. Ency. 1 306.

Respectfully submitted.

Harry S. Kimball
Wm Henry White
A. E. L. Leeke
Creed M. Fulton

In re

Application of George L. Flint,

For enrollment as a Cherokee

Citizen.

SUPPLEMENTARY BRIEF ON BEHALF OF APPLICANTS.

The contention that it was the intention of Congress that the non-residence of this claimant has operated to deprive him of his rights as a Cherokee citizen is negatived by paragraph 8 of Section 21 of the Act of June 28, 1898. In this paragraph Congress provides that where an Indian has claims in two tribes he may elect in which tribe he will be enrolled and where he will receive his allotment. In such a case it is clear that an Indian who claimed rights in the Cherokee Nation and, for example, in the Peoria Nation, could elect to retain his rights as a Cherokee although he might be living outside of the limits of the Cherokee Nation and within the limits of the Peoria Nation.

Since the rule of the construction of Statutes requires that all parts of a Statute shall be read together, it follows that this paragraph of said section 21 is to be read in connection with paragraph one under which this claimant asks enrollment. Endlich on Interpretation of Statutes, section 40. United States vs. Laudram, 118 U. S. 81, 85. Atkins vs. The Disintergrating Co., 18 Wall. 272, 302. The text books are full of other cases on this point. 23 Am. & Eng. Ency. p. 306.

Respectfully submitted,

Harry G. Kimball.
Wm Henry White.
A. E. S. Leckie
Creed M. Fulton

In re

Application of Gertrude F. Flint

for enrollment as a Cherokee

citizen.

SUPPLEMENTAL BRIEF ON BEHALF OF APPLICANT.

The contention that it was the intention of Congress that the non-residence of this claimant has operated to deprive her of her rights as a Cherokee citizen is negatived by paragraph 8 of section 21 of the Act of June 28, 1898. In this paragraph Congress provides that where an Indian has claims in two tribes he may elect in which tribe he will be enrolled and where he will receive his allotment. In such a case it is clear that an Indian who claims rights in the Cherokee Nation and, for example, in the Peoria Nation, could elect to retain his rights in the Cherokee Nation although he might be living outside of the limits of that Nation and within the limits of the Peoria Nation.

Since the rule of the construction of statutes requires that all parts of a statute shall be read together, it follows that this paragraph of said section 21 is to be read in connection with paragraph one under which this claimant asks enrollment, and conclusively proves that Congress never intended that non-residence should bar this claimant. Endlich on Interpretation of Statutes, Section 40. United States vs. Landram, 118 U. S. 81, 85. Atkins vs. The Disintergrating Co., 18 Wall. 272, 302. The text books are full of other cases on this point. 23 Am. & Eng. Ency. p. 306.

Respectfully submitted,

Harry G. Kimball

Wm Henry White

A. E. S. Lackie

Reed M. Fulton

In re Application of
Rebecca L. Laughlin for
enrollment of herself and
children as Cherokee citizens.

SUPPLEMENTAL BRIEF ON BEHALF OF APPLICANTS.

The contention that it was the intention of Congress that the non-residence of these claimants has operated to deprive them of their rights as Cherokee citizens is negatived by paragraph 8 of section 21 of the Act of June 28, 1898. In this paragraph Congress provides that where any Indian has claims in two tribes he may elect in which tribe he will be enrolled and where he will receive his allotment. In such a case it is clear that an Indian who claims rights in the Cherokee Nation and, for example, in the Peoria Nation, can elect to retain his rights in the Cherokee Nation although he might be living outside of the limits of that Nation and within the limits of the Peoria Nation.

Since the rule of the construction of statutes requires that all parts of a statute shall be read together, it follows that this paragraph of said section 21 is to be read in connection with paragraph one under which these claimants ask enrollment and conclusively proves that Congress never intended that non-residence should bar these claimants. Endlich on Interpretation of Statutes section 40. United States vs. Landram, 118 U. S. 81, 85. Atkins vs. The Disintegrating Co., 18 Wall. 272, 302. The text books are full of other cases on this point. 23 Am. & Eng. Ency. p. 306.

In regard to the claim of the children, attention is invited to the well settled principle of law that in construction where one meaning would result in disinheriting children and another possible one would not so result, the former is permissible only when expressed in such clear terms as will make the intention so to do unmistakable. Underhill on Wills, section 332, Vol. I, p. 445. And this principle is as applicable in the construction

and interpretation of such statutes as the one under consideration as in the construction of any other document.

Statutes which work forfeitures or confiscations of property require a close construction. United States vs. Athens Armory etc. 35 Ga. 284. Endlich on Interpretation of Statutes, section 243.

Respectfully submitted,

Harry G. Kimball
Mr Henry Wheeler
A. E. S. Leckie
Creed M. Fulton

In re
Application of Lydia K. Spencer
and children for enrollment as
Cherokee citizens.

SUPPLEMENTAL BRIEF ON BEHALF OF APPLICANTS.

The contention that it was in the intention of Congress that the non-residence of these claimants has operated to deprive them of their rights as Cherokee citizens is negatived by paragr graph 8 of section 21 of the act of June 28, 1898. In this paragraph Congress provides that were an Indian has claims in two tribes he may elect in which tribe he will be enrolled and where he will receive his allotment. In such a case it is clear that an Indian who claims rights in the Cherokee Nation and, for example, in the Peoria Nation, can elect to retain his rights in the Cherokee Nation although he might be living outside of the limits of that Nation and within the limits of the Peoria Nation.

Since the rule of the construction of statutes requires that all parts of a statute shall be read together, it follows that this paragraph of said section 21 is to be read in connection with paragraph one under which these claimants ask enrollment and conclusively proves that Congress never intended that non-residenc should bar these claimants. Endlich on Interpretation of Statutes section 40. United States vs. Landram, 118 U. S. 81, 85. Atkins vs. The Disintergrating Co., 18 Wall. 272, 302. The text books are full of other cases on this point. 23 Am. & Eng. Ency. p. 306.

In regard to the claim of the children, attention is invited to the well settled principle of law that in construction where one meaning would result in disinheriting children and another possible one would not so result, the former is permissible only when expressed in such clear terms as will make the intention so to do unmistakable. Underhill on Wills, section 332, Vol. I, p. 445. And this principle is as applicable in the construction

and interpretation of such statutes as the one under consideration as in the construction of any other document.

Statutes which work forfeitures or confiscations of property require a close construction. United States vs. Athens Armory etc. 35 Ga. 244. Endlich on Interpretation of Statutes, section 243.

Respectfully submitted,

Harry G. Kimball
Wm Henry White
A. E. L. Leckie
Creed M. Fulton

In re		
application of Preston O.		
Browning, and children,		
Thomas E., Ben F., and		No. 42716-1902.
Queen E., for enrollment		
as Cherokee citizens.		

SUPPLEMENTAL BRIEF ON BEHALF OF APPLICANTS.

The contention that it was the intention of Congress that the non-residence of these claimants has operated to deprive them of their rights as Cherokee citizens is negatived by paragraph 8 of section 21 of the Act of June 28, 1898. In this paragraph Congress provides that where an Indian has claims in two tribes he may elect in which tribe he will be enrolled and where he will receive his allotment. In such a case it is clear that an Indian who claims rights in the Cherokee Nation and, for example, in the Peoria Nation, can elect to retain his rights in the Cherokee Nation although he might be living outside of the limits of that Nation and within the limits of the Peoria Nation.

Since the rule of the construction of statutes requires that all parts of a statute shall be read together, it follows that this paragraph of said section 21 is to be read in connection with paragraph one under which these claimants ask enrollment and conclusively proves that Congress never intended that non-residence should bar these claimants. Endlich on Interpretation of Statutes, Section 40. United States vs. Lanaram, 118 U. S. 81, 85. Atkins vs. The Disintergrating Co., 18 Wall. 272, 302. The text books are full of other cases on this point. 23 Am. & Eng. Ency. p. 306.

In regard to the claim of the children, attention is invited to the well settled principle of law that in construction where one meaning would result in disinheriting children and another possible one would not result, the former is permissible only when expressed in such clear terms as will make the intention

so to do unmistakable. Underhill on Wills, section 332, Vol. I, p. 445. And this principle is as applicable in the construction and interpretation of such statutes as the one under consideration as in the construction of any other document.

Statutes which work forfeitures or confiscations of property require a close construction. United States vs. Athens Armory etc. 35 Ga. 244. Endlich on Interpretation of Statutes, section 243.

Respectfully submitted,

Harry S. Kimball
Wm Henry White
A. E. L. Leckie
Creed M. Fulton.

CHEROKEE, D.--315.

Levi C. Flint,)
Stella A. Flint.) Applicants.

They are on the Cherokee-Shawnee Register Roll of June 10th, 1871:

323, Flint, Levi;

324, Flint, Stella Ann.

On the Cheokee-Shawnee Roll made by John W. Wallace:

353, Flint, Levi; Age 56, Flint Stella A, age 50.

On the Cherokee-Shawnee Roll made by J. G. Dickson:

314, Flint, Levi, age 62;

315, Flint Stella A, age 56.

On the Cherokee-Shawnee Roll of 1896, Delaware District:

147 Flint, Levi;

148, Flint Stella A.

On the Lipe Cherokee-Shawnee Roll made under act of the Cherokee National Council of March 30, 1896:

344, Flint Levi; Flint Stella A.

Levi C. Flint and family, consisting of nine persons came to the Cherokee Nation prior to June 10, 1871, and under the agreement of June 7, 1889, they paid their per capita shares to the Cherokee Nation amounting to $1749.60. Lived in the Cherokee Nation on his farm until appointed Government Blacksmith at the Quapaw Agency, Indian Territory; then moved to Seneca, Missouri, where he now resides, 8 miles from the Cherokee Nation.

He has a farm in the Cherokee Nation, and they have never became citizens of any other government, but the Cherokee Nation.

They have received pay on all the Cherokee-Shawnee pay rolls, and on the Lipe Roll from the Treasurer of the Cherokee Nation.

These applicants are Shawnee Indians by birthm and blood, and are Cherokees under Article 15, Treaty of July 19, 1866, and the agreement between the Cherokees and Shawnees, approved by the President June 9, 1869, and are entitled to all "all the rights of native Cherokees."

BLACKFEATHER vs. CHEROKEE NATION, 155 U. S. 218.

The applicants became citizens of the United States by operation of law, and not of their own voluntary act, and they are entitled to all their "Tribal or other property." 24 Stats. at L. 390, Amended March 3, 1901,

And that previous to said enactment they did not become citizens of the United States.

ELK v. WELKINS, 112, U. S., 94.

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other Government, all his rights and privileges as a citizen of this Nation shall cease."

CHEROKEE CONSTITUTION, ART. 1, SEC. 2, P. 12, CHEROKEE LAWS.

To remove out of the limits with his effects. Under decisions of the Courts of this Territory, the improvements on the public domain are personal effects. The citizens to remove and join any other Government must be of age, free and his own master, and not a wife, minor, incompetent or under control or under restraint. He must have the necessary qualifications to comply with the laws of naturalizations of the "other government."

He must join another government and ~~remove~~ renounce his allegiance to the Government of the Cherokee Nation. The mere act of temporary residence under the jurisdiction of the other Government does not make him a citizen thereof, any more than the residence of a Creek Indian and family in the Cherokee Nation do not makes him a Cherokee citizen entitled to enrollment and allotment of Cherokee domain and tribal funds.

Assistant attorney General Little says: "He must not only remove his effects, but he must become a citizen of another Government."

EIGHTH ANNUAL REPORT, PAGE 205.

Are we to judge by the practice in the Cherokee Nation in like cases, then the evidence of D. W. Bushyhead, ex-Principal Chief, before the Clifton Commission, Freedmen Enrollment, 1896, shows that he went to California in 1849, leaving (effects) in the Nation a slave, horse and saddle. Voted and held office in California, and returned after nineteen years absence and found slave freed, horse dead and saddle lost. He was appointed and served two terms as treasurer of the Nation and was elected and served two terms as principal chief of the Cherokee Nation. Yet, he never had been re-admitted.

These applicants still own a farm in the Nation and have never joined any other government, nor have they received any payment or allotment from any other Indian Tribe or Nation.

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."--Curtis Act.

This applies to State, Territorial and Tribal boundaries, and makes absolute without warning, the confiscation of property and rights of all Indians who were absent prior to June 28, 1898,

"No person shall be deprived of life, liberty or property without due process of law."----Fifth Amendment to U. S. Constitution.

This Article is a restraint upon the legislative as well as the executive and judicial branches of the Government, and cannot be so construed as to leave Congress free to make any process "due process of law."

MOWREY vs HOBOKEN L. & I. Co., 18 Howard, 296.

These words generally imply and include regular allegations, opportunity to answer, and trial according to some settled course of judicial proceedings. Ib. 280.

The striking off of the names of these applicants from the rolls, forever prevents them from participation in the final allotment of lands and other common property of the Cherokee Nation and confiscates their present holdings, without any compensation.

The quotations of the Cherokee laws and constitution seem out of place, under the following section of the Curtis Act:

"Sec. 26. That on and after the passage of this act the laws of the various tribes or Nations of Indians shall not be

enforced at law or in equity by the Courts of the United States in the Indian Territory."

The commission acting in the capacity of a court for enrollment and as judges of the rights of the applicants, cannot enforce the Cherokee Constitution and laws.

These Indian applicants become citizens of the United States by virtue of the acts of the Acts of Congress, 24 Stats. 390, as Amended March 3, 1901, Viz.,

"And every Indian in Indian Territory is hereby declared to be a citizen of the United States, and is entitled to all the rights, privilieges and immunities of such citizens, whether said Indian has been or not, or otherwise a member of any tribe of Indians within the Territorial limits of the ~~Cherokee~~ United States. without in any manner imparing or otherwise affecting the rights of any such Indian to tribal or other property."

By the law quoted, Congress repealed that portion of the Curtis act"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship".

These applicants are granted "all the rights, privileges and immunities 'of citizenship of the United Syates."

There is no law compelling citizens of the United States to remove and settle in good faith in the Nation, State or Territory in which he claims citizenship, prior to June 28, 1898,

All citizens of the United States were privileged on June 28, 1898, and at all times before and since, to move to and reside in any State or Territory, without any forfeiture of any of

their rights or property.

If that part of the Curtis law is now in force, then these applicants, citizens of the United States, are denied some of the "rights, privileges, and immunities" that they should enjoy and are entitled to.

The tribal rights of these applicants are protected by said Amended Act, "without in any manner impairing, or otherwise affecting the rights of any such Indian to Tribal or other property." This amdnded act of Congress repealed the destructive and unconstitutional clause of the Curtis Act, or otherwise, these applicants are denied their rights "to tribal or other property" without "due process of law."

These applicants, in view of their rights, and not for the purpose of denying rights to others, call your attention to the fact that almost all of the Cherokees born prior to the Civil War, did remove with their effects out of the limits of this Nation during that period, and that thousands now living were born during that period in the neighboring States, Tribes and Territories, and that the National Council has failed to re-admit these to citizenship, and that their sole hopes rest upon the authenticated roll.

S. S. Glover
Atty for Levi & Stella a Hunt,

R O L L S.

Under the same Act of Congress John W. Wallace made the Rolls of the Shawnees, Delawares and Freedmen, and the Court of Claims recognized the validity of these Rolls. 30 Ct.of Cl.180.

The Cherokee National Council passed an Act entitled, "An Act to Equalize the Per Capita Shares of the Shawnee Citizens of the Cherokee Nation with the Shares paid the Cherokees by Blood," approved March 30, 1896. The Chreokee Nation by the Principal Chief appointed William Carey, the Shawnee Business Committee appointed Jacob Guthrie, and the Secretary of the Interior appointed James G. Dickson, and the Commission examined each Shawnee applicant and made the Roll, throwing off forty persons, and the Roll so made ~~was~~ is known as the Lipe Roll.

The roll of Cherokee-Shawnees known as the Dickson Roll was made under the decree of the Court of claims in the case of Johnson Blackfeather, Principal Chief of the Shawnee Indians, vs The Cherokee Nation, and the United States.

The Register Roll of June 10, 1871, was made pursuant to ~~x~~ the agreement of June 9, 1869.

The applicants are on these rolls and have been recognized by the Cherokee authorities as Cherokee-Shawnees, entitled to participate in the pro rata payments of money due the Cherokees Nation, and these acknowledgments have a binding force and by these rolls they were acknowledged as Cherokees regardless of residence and palce of birth, and the Cherokee Nation is estopped from disputing their claims, except in case of fraud.

AN ACT TO EQUALIZE THE PER CAPITA SHARE OF THE SHAWNEE CITIZENS
OF THE CHEROKEE NATION WITH SHARES PAID
THE CHEROKEES BY BLOOD.

-----ooOoo----

BE IT ENACTED BY THE NATIONAL COUNCIL, That there be (and) is hereby appropriated out of the first instalment of the money derived from the sale of the Cherokee Outlet set aside by the Act of Congress approved March 3, 1893, to pay the claims of the Shawnees, Delawares and Freedmen, citizens of the Cherokee Nation the sum of $76,538 to be paid the Shawnee citizens of the Cherokee Nation whose names shall appear upon the roll made by the Secretary of the Interior under the terms of the decree entered in the case of JOHNSON BLACKFEATHER, The Principal Chief of the Shawnee Tribe of Indians vs The CHEROKEE NATION, et al, in the Court of Claims of the United States. Provided that the said Shawnee citizens of the Cherokee Nation shall, before this provision becomes effective, through their authorized agent or agents, first enter into a written agreement with the Principal Chief of the Cherokee Nation, requesting the Secretary of the Interior to prepare said roll of Shawnee citizens by a Commission of three, one appointed by the Principal Chief of the Cherokee Nation, one by the Secretary of the Interior, and one by the Business Committee. The said roll to contain the names only of the Shawnee Tribe of Indians, and their descendants as became citizens of the Cherokee Nation by operation of the agreement between the Cherokee Nation and the Shawnee Indians dated the 9th day of June, 1869, and who were living on May 5th, 1894, or by the operation of special acts of the National Council duly complied with by the parties admitted and were living at said date. Provided, however, that the said roll herein author-

ized shall show the said Shawnees who were citizens of the Cherokee Nation on April 26th, 1896, November 26th, 1890, and May 5th, 1894.

2. The said money so appropriated shall be paid said Shawnee Indians by the Treasurer of the Cherokee Nation as soon as said money (fund) shall be available; and said treasurer shall pay no Shawnee Indians more than an amount of said fund sufficient in addition to what shall be to each Shawnee Indian citizen of the judgment in the case last before mentioned to make the sum paid each Shawnee ~~Indian~~ citizen $295.35. Provided, that no Shawnee admitted or Shawnee child born subsequent to the date as shown in the afore said roll shall be entitled to receive the amount or amounts of said payment or payments authorized on said dates by an Act of ~~Congress~~ the National Council, it being the intention to pay said Shawnees no more than if they were Cherokees by blood. Provided, further, that if the said full amount hereinbefore appropriated in section first is not required the balance remaining is covered back and retained in the Treasury of the Cherokee Nation.

3. From the sum so above quoted there shall be deducted by said Treasurer the amount the said Shawnee Indians have agreed to pay their authorized attorney in this matter, which shall be paid ~~out of said fund of the Treasurer~~ said attorney out of said fund of the Treasurer as soon as the same is available; also, the sum of $1000 or so much thereof as shall be necessary for the payment of the services of the Census Commission as hereinbefore provided for, half of said amount to be paid by the Cherokee Nation and half by said Shawnee Indians. Provided, that the expenses incurred in making said payment shall be borne by the said Shawnee Indians out of said Amount to be paid them, as provided in this Act.

4. That all acts inconsistent with this Act are hereby repealed.

Approved March 30th, 1896.

....

EXECUTIVE DEPARTMENT, CHEROKEE NATION,

Tahlequah, 9th, 1896.

(S E A L)

IT IS HEREBY Certified that the foregoing is a correct copy of the original.

Witness, SEAL OF THE CHEROKEE NATION.

(Signed) JOHN L. ADAIR,

Executive Secretary.

Cherokee D 315

Levi C Hinch et al

S S Glover
Atty

Cherokee D 318

N.A.L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Levi C. Flint for the enrollment of himself and his wife, Stella A. Flint, as citizens of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 17, 1900, the applicant, Levi C. Flint, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself and his wife, Stella A. Flint, as citizens of the Cherokee Nation. Thereafter, on February 24, 1902, at Muskogee, Indian Territory, further evidence in the matter of the application was heard and the case was submitted to the Commission for final consideration and ordered closed.

It appears from the evidence in this case that the applicant, Levi C. Flint, and his wife, Stella A. Flint, married in November 1883, whose names appear on the Register of Shawnees who removed to the Cherokee Nation prior to June 10, 1871, lived in the Cherokee Nation but a short time before removing with all of their effects and family to the Quapaw Agency, where they remained until the year 1889, in which year they became residents of Seneca, Missouri, where they have resided ever since. Neither the name of the applicant, Levi C. Flint, nor that of his wife, Stella A. Flint, appears upon the Cherokee authenticated tribal roll of 1880, but they are both identified on the Wallace Roll of Shawnee-Cherokees, and the Dickens Roll of Shawnee-Cherokees. They are also identified on the Cherokee -Shawnee Pay roll of 1896 and the Cherokee census roll of 1896.

Paragraph 9, of Section 21 of the Act of Congress, June 28, 1898. (30 Stats. 495.) provides:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship: . . . . . "

It is therefore the opinion of this Commission that Levi C. Flint and his wife, Stella A. Flint, are not lawfully entitled to be enrolled as members of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be refused and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Acting Chairman.

T. B. Needles.
Commissioner.

Dredmridge.
Commissioner.

Muskogee, Indian Territory,

this MAY 27 1902

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cher. D-315.

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes in the matter of the application for the enrollment of Levi C. Flint as a citizen of the Cherokee Nation of Shawnee blood, and for the enrollment of his wife, Stella A. Flint, as a citizen by intermarriage of the Cherokee Nation.

This decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Very respectfully,

Acting Chairman.

Encl. C-S.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL AND WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

August 30, 1902.

W. W. Hastings, Esq.,

Muscogee, Indian Territory.

Dear Sir:

Enclosed please find carbon copy of the brief filed on behalf of Nancy Sky and her child for enrollment as Cherokee citizens.

We also enclose carbon copies of supplemental briefs filed in the following cases:

Levi C. Flint, et ux., Stella A. Flint,
George L. Flint,
Gertrude F. Flint,
Rebecca L. Laughlin and children,
Lydia K. Spencer and children, and
Preston G. Browning and children.

Kindly notify us of the receipt of these copies, and oblige,

Yours truly,

Kimball & White,
per

Attorneys for Applicants.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. ASTLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 315.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, October 6, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date May 27, 1902, rejecting the application of Levi C. Flint for the enrollment of himself as a citizen by Shawnee blood, and for the enrollment of his wife, Stella A. Flint, as a citizen by intermarriage, of the Cherokee Nation, was affirmed by the Secretary of the Interior on September 13, 1902.

Respectfully,

Acting Chairman.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

July 17, 1903.

W. W. Hastings, Esq.,

Muscogee, Ind. Ter.

Dear Sir:

Enclosed please find copies of briefs forwarded to the Commission to the Five Civilized Tribes today in the following cases:

In re application of Levi C. Flint, et al.;
In re application of Rebecca L. Laughlin, et al.;
In re application of Lydia K. Spencer, et al.;
In re application of George L. Flint; and
In re application of Preston G. Browning, et al.

Please acknowledge receipt of the same, and oblige,

Very respectfully,

[illegible]

315

IN THE MATTER OF THE APPLICATION OF

Leon D. Flint et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 17, 1900
B. Memo of application - " 17, 1900
C. Notice of final consideration
D. Receipt for testimony
E. Supplemental testimony and order closing testimony, 3/21/02

Transferred to R-679

Cher D 316

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 17, 1900.

In the matter of the application of George L. Flint for the enrollment of himself as a Cherokee citizen; being sworn and examined by Commissioner Needles he testified as follows :

Q What is your name? A George L. Flint.
Q What is your age? A Forty-six.
Q What is your post-office address? A Seneca, Missouri.
Q Where do you reside? A I reside in Seneca.
Q For whom do you apply? A For myself.
1896 roll page 602 #150 George L. Flint, Delaware .

Examined by Cherokee Attorney F.T.Hutchings:

Q How long did you live in the Cherokee Nation after you removed with the Seneca from Kansas, A About four years.
Q Where did you move to then? A Removed to the Quapaw Agency.
Q How long did you remain at the Quapaw Agency? A About three years.
Q Where did you remove to then? A I moved to the State of Kansas.
Q How long did you remain in the State of Kansas? A I don't know exactly how long,- it wasn't long.
Q Where did you remove to then? A State of Wyoming, and was there about seven or eight years as well as I can remember.
Q Where did you move to then? A State of Nebraska.
Q How long did you stay in the State of Nebraska? A About one year.
Q Where did you move to then? A State of Missouri.
Q When did you reach the State of Missouri? A In the Spring of 1894.
Q And you have resided in the State of Missouri ever since?
A Yes sir.
Q You didn't leave any property or effects in the Cherokee Nation at that time? A No sir.
Q Have you ever voted in the Cherokee Nation since that A Not since I left.
Q The only act of citizenship that you performed was to draw the Seneca payment? A Yes sir.

Com'r Needles: The name of George L. Flint is found upon the list of Senecas who removed and located in the Cherokee Nation in accordance with the 5th article of the Cherokee Treaty with the United States, in the year 1866, #225; and the name of George L. Flint also found upon the census roll of 1896; he being duly identified thereby; final judgment as to the application for enrollment of said George L. Flint will be suspended, and his name will be placed upon a doubtful card, because of the fact of residence

W.D.Green, being first duly sworn, states that as stenographer to the Commission to the Civ Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 19 day of September 1900.

Stenographer.

D. 316.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of George L. Flint for the enrollment of himself as a citizen of the Cherokee Nation.

Applicant represented by S. S. Clover, Vinita, I. T.
Cherokee Nation represented by W. W. Hastings.

P. C. BROWNING, being duly sworn, testified as follows:

COMMISSION: What is your name? A P. C. Browning.
Q Where do you live, Mr. Browning? A Seneca, Missouri.
MR. CLOVER: What relationship exists between you and George L. Flint? A Brother-in-laws.
Q How long have you known him? A I have known him twenty years.
Q Who is the father of-his father and mother? A Levi Flint and Stella A. Flint.
Q Do you know whether he was enrolled on what is commonly known as the Wallace roll? A Yes, sir.
Q Do you know whether he was paid under that roll? A Yes, sir, he was.
Q Do you know whether he was enrolled on what is commonly known as the Dixon roll? A Yes, sir.
Q Do you know whether he was ever paid under that roll? A Yes, sir, he was paid.
Q In what tribe or nation does he belong? A Cherokee-Shawnees.
Q Do you know of him joining any other tribe or government? A No, sir.
MR.HASTINGS: Do you know of your own knowledge that he has not voted elsewhere—of your own personal knowledge? A No, sir.
Q This man states that he came here in '71, and lived here about four years, and went back to Kansas, and from there to Wyoming, I believe from there to Nebraska, and from there to Missouri, and reached Missouri about '94 or '5, and has lived there ever since, that is about correct, is it? A Yes, sir.
COMMISSION: The name of George L. Flint appears as No. 325 upon the register of the members of the Shawnee tribe of Indians who moved to and located in the Cherokee Nation, Indian Territory, prior to the 10th day of June, 1871, within two years from the 9th day of June, 1869, in accordance with an agreement entered into by and between the Shawnee Tribe of Indians and the Cherokee Nation of Indians. The name of George L. Flint also appears as No. 343 upon the Day roll of Cherokee-Shawnee citizens of the Cherokee Nation, as disbursed by D. W. Lipe, treasurer of said Nation, authorized by an act of the National Council approved March 30, 1896.
The attorney for the applicant will be granted fifteen days in which to furnish the Commission with certified copies of the Wallace and Dixon Rolls of Cherokee-Shawnees.
COMMISSION: Do you submit this case to the Commission for final consideration?
MR.CLOVER: Yes, sir.
COMMISSION: The attorney for the applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now filed, in addition to the certified copies of the roll above requested.

Arthur O. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur O. Croninger

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

Commissioner.

1316

IN THE DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes.

----oOo----

In re)
application of George L. Flint :
for enrollment as a citizen of)
the Cherokee Nation. :

----oOo----

BRIEF ON BEHALF OF APPLICANT.

Statement of Facts.

George L. Flint was a member of the Shawnee Tribe of Indians who came to the Cherokee Nation before June 7, 1871, under the terms of the Shawnee-Cherokee agreement of June 7, 1869, by which he became entitled to all the rights and privileges of Cherokee citizens. His name was been found to be properly on the Shawnee-Cherokee Register Roll of 1871. At this time he was a minor and was brought to the nation by his father and mother, Levi C. and Stella A. Flint.

The Flints settled on a farm in the Cherokee Nation and remained for a little over three years, or until the fall of 1874, when the family becoming very much reduced in circumstances owing largely to the loss of their horses and mules, George L. Flint's parents removed to the Choctaw Nancy tkaing this applicant with them. At this time applicant was still a minor.

The record does not show that applicant's parents removed any property at all from the Nation, but does show that he left a house, fences, all of his agricultural implements and all of his cattle; in fact, everything he had was left in the Nation.

Applicant is shown by the record to have remained at the

Quapaw Agency for a considerable time. Applicant then went to Kansas where he lived for a short time and going from there to Wyoming, where he remained for several years. He then lived in Nebraska for one year and went to Seneca in 1894, where he has lived since. The testimony of Charles B. Laughlin taken May 25, 1903, says that for a year or more during this time he lived in the Cherokee Nation, but the exact time is not fixed. He has been married twice, the first time at the Quapaw Agency, the last time in Wyoming, but by neither of these marriages did he become a citizen of any other government or receive an allotment in any Indian Tribe.

Argument.

We take it that the only objection to this applicant is now the one heretofore raised, namely, paragraph nine of section 21, Act of June 28, 1898:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

"The purpose of this provision," said the Assistant Attorney-General on March 16, 1903, in the Yeargains cases and the Secretary of the Interior on the same day, "is clearly seen when read in the light of the history of the Cherokee Nation. x x x It was therefore against those who had never identified themselves with the Nation and those who had withdrawn themselves from the Indian people that this provision of the statute was aimed. It was for the protection of the Cherokee people and in harmony with the provisions of the Cherokee Constitution. That instrument defines how Cherokee nationality shall be lost or forfeited, viz:

That whenever any citizen shall remove with his effects out of the limits of this Nation and become a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease. . . ."

Certainly George L. Flint "identified himself with the Nation." He came under the treaty and lived in the Nation for more than three years and until driven out by poverty. "The

stautue" was not "aimed" at George L. Flint on that account. There is left only "those who had withdrawn themselves from the Indian people" and the Yeargains decision explains who they are in showing how "Cherokee nationality shall be lost or forfeited," thus:

"There are three elements clearly defined which must concur to effect forfeiture of nationality, or complete expatriation -- viz: removal of the person, coupled with removal of all effects and property, and acquisition of another nationality by assuming the obligations of citizenship there. To these tests and for their construction there is also another, implied but not mentioned -- viz: the intent with which such acts be done, for if all property and the person were for some temporary purpose removed from the Nation, and if acts were done which might bear the construction of assuming obligations of citizenship in another community -- as voting there for instance -- yet if the removal of person and property were for some temporary purpose and with intent to return, and the acts implying an assumption of duties of citizenship elsewhere had no such purpose, then the change of citizenship would not follow."

Under this decision then, four things must concur, else this applicant, George L. Flint, must be enrolled, viz:

1. Removal from the Nation.
2. Removal of effects.
3. Become a citizen of another government.
4. Do all of the above with the intent to abandon his Cherokee citizenship.

"Applying such tests to the facts in the present case, it is clear that George L. Flint has not lost his Cherokee nationality." He has done the first of the four, but neither the second, third nor fourth. We take them in order.

2. Effects. Flint's father left in the Cherokee Nation a house which had cost him $600.00; he left his agricultural

implements and if they were few they were all he had; he left his fences; and he left a cow and a yearling. Cherokee counsel tried to be facetious about the cow and calf, but the record criticises the effort in showing thirteen head of cattle and ten years or maybe more during which Flint kept them in the Nation after his removal. Certainly Levi C. Flint did not remove his effects and must be enrolled. His son, the applicant, was entitled to enrollment so long as he was a minor and we have next to inquire whether he has done some act which deprives him of the right.

3. Another government. There is not a word in the record even tending to show that George L. Flint ever became a citizen of another government. It is not shown that he ever, in any way, undertook to exercise a single right of citizenship in another government, or ever even owned any property anywhere. Certainly to become a citizen of any state it was first necessary for him either to become a citizen of the United States or at least to have declared his intention so to do. Both of these were legally impossible until 1887.

Elk vs. Wilkins, 112 U. S., 94.

This case having decided that an Indian, of a tribe still having a tribal organization, may not become a citizen of the United States except under act of Congress, we invite attention to the acts on the subject.

The Act of February 8, 1887, (24 Stat., 39) granted citizenship to Indians who take up their residence separate and apart from any tribe of Indians, "without in any manner impairing or otherwise affecting the right of any Indian to tribal or other property." This was amended March 3, 1901, (31 Stat., 1447) so as to include "all Indians in Indian Territory," but tribal rights are not affected by this amendment.

The Act of August 9, 1888, (25 Stat., 392) granting citizenship to Indian women who marry United States citizens expressly declares also that nothing in that Act "shall in any way affect

the right or title of such married women to any tribal property or any interest therein."

How then could George L. Flint become a citizen of the United States so as to forfeit his rights to tribal property? Clearly not under the Acts of Congress; and the Supreme Court has said he can in no other way. Is there conflict between the Acts of Congress and the Cherokee Constitution? Then, the Acts of Congress prevail.

U. S. vs. Rogers, 4 How., 567, 573;
Choctaw Nation vs. U. S., 119 U. S., 27;
Stephens vs. Cherokee Nation, 174 U. S., 487.

Under the Cherokee Constitution a citizen must become a citizen of another government to lose his tribal rights. The Acts of Congress say that a Cherokee becoming a citizen of the United States will not lose his tribal rights of property. The Act of Congress prevailing, the Cherokee provision must be limited to other Indian governments.

Since George L. Flint has not become a citizen of another government so as to lose his tribal rights he must be enrolled.

We, therefore, respectfully submit that this applicant should be enrolled for the following reasons:

1. His name has been found by the Commission to be properly on the roll of 1871.

2. While he has removed from the Cherokee Nation he has not become a citizen of any other government. There is no act indicating an effort so to do. He could not have become a citizen under the law so as to deprive him of his property rights in the Cherokee Nation.

Respectfully, submitted,

Harry S. Kimball
Guy Emery White
Attorneys for Applicant.

Department of the Interior.

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 12, 1902.

In the matter of the application of George L. Flint for enrollment as a citizen of the Cherokee Nation of Shawnee blood.

Cherokee D. 316.

Brief on behalf of the Cherokee Nation.

-:-:-:00:-:-:-

The applicant, George L. Flint, is 46 Years of age; he claims to have come with the Shawnee Indians to the Cherokee Nation in about 1870; and that his name is upon the roll of Shawnees who came at that time; and that he remained in the Cherokee Nation some three or four Years, when he left and first went to the Quapaw AgencY; thence moved to the state of Kansas, and from there to the state of WYoming, where he remained seven or eight Years, and moved to the state of Nebraska, where he remained about one Year; thence to the state of Missouri, when he seems to have landed in about 1894, where he has since resided. He admits in his testimonY that he left no propertY or effects in the Cherokee Nation; and that he has been awaY from the Cherokee Nation since about 1874, or a period of about 28 Years.

We have briefed his father's case, being that of Levi C. Flint, which is found on Cherokee Doubtful card No. 315, to which reference is made.

In addition thereto we desire to call the attention of the Commission to that part of the Shawnee agreement under which he claims he first came to the Cherokee Nation, which required that the applicant remove to and permanentlY locate within the Cherokee Nation within ~~three~~ four Years after that agreement was entered into. We also desire to call attention to that provision of the Curtis Bill which provides that no person shall be enrolled as a citizen of the Cherokee Nation who has not

heretofore removed to and in good faith settled in the Nation. It seems quite clear under the law that the applicant is not entitled to be enrolled as a citizen of the Cherokee Nation.

Respectfully submitted,

Attorney for the Cherokee Nation.

W H M.

CHEROKEE, D.--218

George L. Flint,) Applicant,
)
Age 46.) Cherokee-Shawnee.

George L. Flint, son of Levi C. and Stella A. Flint, Cherokee-Shawnees, came to the Cherokee Nation with his father and mother and family prior to June 10, 1871, and is a Cherokee-Shawnee by birth and blood, under Art. 15, treaty of July 19, 1866, and agreement between Cherokees and Shawnees of June 9, 1869.

He is on the Cherokee-Shawnee Register Roll of June 10, 1871, No. 325, Flint, George L.

On the Cherokee-Shawnee Roll made by J. W. Wallace, No. 258, Flint George L.

On the Cherokee-Shawnee Roll made by J. J. Dickson, 318 Flint, Geo. L.

On the Cherokee Census Roll, of 1896,

150 George L. Flint, Delaware District.

On the Cherokee-Shawnee Roll made under Act. of the Cherokee National Council approved March 30, 1896, and commonly called the Lipe Roll, as

No. 343 Flint, George L, and received payments thereof.

Moved with his father to the Quapaw Agency, then to Kansas, then to Wyoming, then to Nebraska, then to Missouri. Had voted in the Cherokee Nation before he left.

Has never joined "any other Government."

This applicant is a Shawnee Indian by birth and blood and a Cherokee under Article 15, Treaty of July 19, 1866, and the agreement between the Cherokees and Shawnees, approved by the President June 8, 1869, and x is entitled to "all the rights of a native Cherokee."

BLACKFEATHER vs CHEROKEE NATION, 155 U.S. 218

This applicant became a citizen of the United States by operation of law, and not of his own voluntary act, and is certainly entitled to all his "Tribal or other property."--24 Stats. at L. 390, Amended March 3, 1901.

And that previous to said enactment he did not become a citizen of the United States.

ELK vs WELKINS, k 112 U. S., 94.

"Whenever any citizen shall remove with his effects out of the limits of this State Nation, and becomes a citizen of any other Government, all his rights and privileges as a citizen of this Nation shall cease."

CHEROKEE CONSTITUTION, ART. 1, Sec. 2, P. 12, Cherokee Laws.

To remove out of the limits with his effects. Under decisions of the Courts of this Territory, the improvements on the public Domain are personal effects. The citizens to remove and join any other Government must be of age, free and his own master, and not a wife, minor, incompetent or under control or under restraint. He must have the neces ary qualifications to comply with the laws of naturalization of the "other government."

He must join another government and renounce his allegiance to the Government of the Cherokee Nation. The mere act of temporary residence under the k jurisdiction of the other Government does not make him a citizen thereof, any more than the residence of a Creek Indian and family in the Cherokee Nation do not make him a Cherokee citizen entitled to enrollment and allotment of Cherokee domain and tribal funds.

Assistant Attorney General Little Says: "He must not only remove his effects, but he must become a citizen of another Government."

EIGHTH ANNUAL REPORT, Page 205.

Are we to judge by the practice in the Cherokee Nation in like cases? The the evidence of D. W. Bushyhead, ex-Principal Chief, before the Clifton Commission-Freedmen Enrollment, 1896, shows that he went to California in 1849, leaving (effects) in the Nation a slave, horse and saddle. Voted and held office in Cali-~~fornia~~fornia, an returned after nineteen years absence and found slave freed, horse dead and saddle lost. He was appointed and served two terms as Treasurer of the Nation and was elected and served two terms as Principal Chief of the Cherokee Nation. Yet, he never had been re-admitted.

This applicant stills owns a farm in the Cherokee Nation, and has never joined any other government, nor has he received any payment or allotment from any other Indian ~~Tar~~ Tribe or Nation,

" No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."--Curtis Act.

This applies to state, Territorial and Tribal boundaries, and makes absolute without warning, the confiscation of property and rights of all Indians who were absent prior to June 28, 1898.

"No person shall be deprived of life, liberty or property without due process of law."--Fifth Amendment to U. S. Constitution.

This Article is a restraint upon the legislative as well as the Executive and Judicial branches of the Government, and cannot be so construed as to leave Congress free to make any process "due process of law."

MOWREY vs. HOBOKEN, L. & I. Co., 18 Howard, 296.

"These words generally imply and include regular allegations, opportunity to answer, and trial according to some settled course of judicial proceedings."--Ib. 280.

The striking off of the name of this applicant from the rolls forever prevents him from participation in the final allotment of lands and other common property of the Cherokee Nation and confiscates his present holdings, without any compensation.

The quotations of the Cherokee laws and constitution seems out of place. under the following section of the Curtis Act:

Sec. 26. That on and after the passage of this Act the laws of the various tribes or Nations of Indians shall not be enforced at law or in equity by the Courts of the United States in the Indian Territory."

The Commission acting in the capacity of a Court for enrollment and as judge of the rights of this applicant, cannot enforce the Cherokee Constitution and Laws.

This Indian applicant became a citizen of the United States by virtue of theActs of Congress, 24 Stats. at L. 390, as amended March 3, 1901, viz:

"And every Indian in the Indian Territory is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges and immunities of such citizens, whether said Indian has been or not, or otherwise a member of any ~~xxxxx~~ Tribe of Indians within the Territorial limits of the United States, without in any manner impairing or otherwise affecting the rights of any such Indian to tribal or other property."

By the law quoted, Congress repealed that portion of the Curtis Act, "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

By this law, this applicant is granted "all the rights, privileges and immunities" of citizenship of the United States.

There is no law compelling citizens of the United States to remove and settle in good faith in the Nation, State or Territory in which he claims citizenship, prior to June 28, 1898.

All citizens of the United States were privileged on June ~~28~~, 28, 1898, and at all times before and since, to move to and reside in any State or Territory, without forfeiture of any

their rights or property.

If that part of the Curtis law is not in force then this applicant, a citizen of the United States, is denied some of the "rights, privileges and immunities" that they should enjoy and are entitled to.

The Tribal rights of these applicants are protected by said Amended Act, "without in any manner impairing, or otherwise affecting the rights of any such Indian to Tribal or other property." This amended Act of Congress repealed the destructive and unconstitutional clause of the Curtis Act, or otherwise this applicant is denied their rights "to Tribal or other property" without "due process of law."

This applicant, in view of his rights, and not for the purpose of denying rights to others, call your attention to the fact that almost all of the Cherokees born prior to the Civil war, did remove with their effects out of the limits of this Nation during that period, and that thousands now living were born during that period in the neighborning States, Tribes and Territories, and that the National Council has failed to re-admit these to citizenship, and that their sold hopes rest upon the authenticated roll.

S S Moore Atty
for Geo L. Hunt

R O L L S.

Under the same Act of Congress John W. Wallace made the Rolls of the Shawnees, Delawares and Freedmen, and the Court of Claims recognized the validity of these Rolls. 30 Ct.of Cl.180.

The Cherokee National Council passed an Act entitled, "An Act to Equalize the Per Capita Shares of the Shawnee Citizens of the Cherokee Nation with the Shares paid the Cherokees by Flood," approved March 30, 1896. The Cherokee Nation by the Principal Chief appointed William Carey, the Shawnee Business Committee appointed Jacob Guthrie, and the Secretary of the Interior appointed James G. Dickson, and the Commission examined each Shawnee applicant and made the Roll, throwing off forty persons, and the Roll so made ~~was~~ is known as the Lipe Roll.

The roll of Cherokee-Shawnees known as the Dickson Roll was made under the decree of the Court of claims in the case of Johnson Blackfeather, Principal Chief of the Shawnee Indians, vs The Cherokee Nation, and the United States.

The Register Roll of June 10, 1871, was made pursuant to ~~N~~ the agreement of June 9, 1862.

The applicants are on these rolls and have been recognized by the Cherokee authorities as Cherokee-Shawnees, entitled to participate in the pro rata payments of money due the Cherokees Nation, and these acknowledgments have a binding force and by these rolls they were acknowledged as Cherokees regardless of residence and place of birth, and the Cherokee Nation is estopped from disputing their claims, except in case of fraud.

AN ACT TO EQUALIZE THE PER CAPITA SHARES OF THE SHAWNEE CITIZENS OF THE CHEROKEE NATION WITH THE SHARES PAID THE CHEROKEES BY BLOOD.

---oo0oo---

BE IT ENACTED BY THE NATIONAL COUNCIL, That there be (and) is hereby appropriated out of the first instalment of the money derived from the sale of the Cherokee Outlet set aside by the Act of Congress approved March 3, 1893, to pay the claims of the Shawnees, Delawares and Freedmen, citizens of the Cherokee Nation, the sum of $76,598.00 to be paid ~~xx~~ the Shawnee citizens of the Cherokee Nation whose names shall appear upon the roll made by the Secretary of the Interior under the terms of the decree entered in the case of Johnson Blackfeather, the Principal Chief of the Shawnee Tribe of Indians vs The Cherokee Nation, et al, in the Court of Claims of the United States. Provided that the said Shawnee citizens of the Cherokee Nation shall, before this provision becomes ~~xxxx~~ effective, through their authorized agent or agents, first enter into a written agreement with the Principal Chief of the Cherokee Nation, requesting the Secretary of the Interior to prepare said roll of Shawnee citizens by a Commission of three, one appointed by the Principal Chief of the Cherokee Nation, one by the Secretary of the Interior, and one by the Business Committee. ~~The said Roll~~ The said roll to contain the names only of the Shawnee Tribe of Indians and their descendants as became citizens of the Cherokee Nation by operation of the agreement between the Cherokee Nation and the Shawnee Indians, dated the 9th of June, 1869, and who were living on May 5th, 1894, or by the operation of special acts of the National Council duly complied with by the parties admitted and were living at said date. Provided, however, that the said roll herein author-

ized shall show the said Shawnees who were citizens of the Cherokee Nation on April 26th, 1896, November 26th, 1890, and May 5th, 1894.

2. The said money so appropriated shall be paid said Shawnee Indians by the Treasurer of the Cherokee Nation as soon as said money (fund) shall be available; and said treasurer shall pay no Shawnee Indians more than an amount of said fund sufficient in addition to what shall be to each Shawnee Indian citizen of the judgment in the case last before mentioned to make the sum paid each Shawnee ~~Indian~~ citizen $295.35. Provided, that no Shawnee admitted or Shawnee child born subsequent to the date as shown in the afore said roll shall be entitled to receive the amount or amounts of said payment or payments authorized on said dates by an Act of ~~Congress~~ the National Council, it being the intention to pay said Shawnees no more than if they were Cherokees by blood. Provided, further, that if the said full amount hereinbefore appropriated in section first is not required the balance remaining is covered back and retained in the Treasury of the Cherokee Nation.

3. From the sum so above quoted there shall be deducted by said Treasurer the amount the said Shawnee Indians have agreed to pay their authorized attorney in this matter, which shall be paid ~~out of said fund of the Treasurer~~ said attorney out of said fund of the Treasurer as soon as the same is available; also, the sum of $1000 or so much thereof as shall be necessary for the payment of the services of the Census Commission as hereinbefore provided for, half of said amount to be paid by the Cherokee Nation and half by said Shawnee Indians. Provided, that the expenses incurred in making said payment shall be borne by the said Shawnee Indians out of said Amount to be paid them, as provided in this Act.

4. That all acts inconsistent with this Act are hereby repealed.

Approved March 30th, 1898.

.....

EXECUTIVE DEPARTMENT, CHEROKEE NATION,
Tahlequah 9th, 1898.

(S E A L)

IT IS HEREBY Certified that the foregoing is a correct copy of the Original .

Witness, Seal of the Cherokee Nation.

(Signed) JOHN L. ADAIR,
Executive Secretary.

Cherokee D 316

H.A.L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of George L. Flint for the enrollment of himself as a citizen of the Cherokee Nation.

D E C I S I O N.

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The record in this case shows that on September 17, 1900, the applicant, George L. Flint, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen of the Cherokee Nation. Thereafter, on February 24, 1902, at Muskogee, Indian Territory, further evidence in the matter of this application was heard, and the case was submitted to the Commission for final consideration and ordered closed.

It appears from the evidence in this application, that the applicant, George L. Flint, has not lived in the Cherokee Nation since about the year 1874. His name appears upon the Register of Shawnees who removed to the Cherokee Nation, prior to June 10, 1871, according to the terms of the Cherokee-Shawnee agreement, approved June 9, 1869, but does not appear upon the Cherokee authenticated tribal roll of 1880. He is identified on the Wallace Roll of Shawnee-Cherokees, on the Dickson roll of Shawnee-Cherokees, on the Cherokee-Shawnee Pay roll of 1896 and the Cherokee census roll of 1896.

Paragraph 9, of Section 21, of the Act of Congress of June 28, 1898.(30 Stats., 495), provides that

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship! . . . . "

It is therefore the opinion of this Commission that George L. Flint is not lawfully entitled to be enrolled as a member of the

Cherokee Tribe of Indians in Indian Territory, and that the application for his enrollment as such should be refused and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,

this

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cher. D-316.

Muskogee, Indian Territory, May 20, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith enclosed, a copy of the decision of the Commission to the Five Civilized Tribes in the matter of the application for the enrollment of George L. Flint as a citizen of the Cherokee Nation.

The decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enc. R-1.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 316.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, October 6, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision of date May 20, 1902, rejecting the application of George L. Flint for the enrollment of himself as a citizen of the Cherokee Nation by Shawnee blood, was affirmed by the Secretary of the Interior on September 13, 1902.

Respectfully,

Acting Chairman.

D.C. 10605-1903

J.P.

DEPARTMENT OF THE INTERIOR.

FHE

WASHINGTON.

I.T.D. 2665-1903
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April 11, 1903.

LRS

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

September 13, 1902, the Department affirmed your decision rejecting the application for the enrollment of George L. Flint as a citizen of the Cherokee Nation.

March 12, 1903, a motion to reopen the case was filed by the attorneys for the applicant, of which you were advised on March 23, 1903.

It appears that Flint has not resided in the Cherokee Nation since 1894; that he took his effects from the Nation when he left.

The Department sustained your decision rejecting the applicant because paragraph 9 of section 21 of the act of June 28, 1898 (30 Stat., 495), provides that

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

The testimony in this case was taken and your decision and that of the Department were rendered under a

different understanding of the act of June 28, 1898, from that expressed by the Department in the case of Clement G. Clarke of March 17, 1903, and the opinion of the Assistant Attorney General of March 16, 1903 in the Yeargain case.

The case is remanded for further proceedings and readjudication in the light of said opinion and decision, particularly as to whether the claimant has lost his citizenship in the Cherokee Nation by becoming a citizen of any other government.

The testimony and papers attached thereto are herewith inclosed, together with arguments filed by the attorneys for the applicant August 25, 1902 and September 5, 1902.

Respectfully,

(signed) Thos Ryan,
Acting Secretary.

3 inclosures.

No. 31

IN THE MATTER OF THE APPLICATION OF

George L. Flint

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony. September 17. 1900.
B - Memo application - " 17. 1900
C Notice of final consideration
Receipt & fee testimony
E Supplemental testimony and order clos testimony, Feb. 24, 1902.

Transferred to R-680

Cher D 317

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 17th, 1900.

IN THE MATTER OF THE APPLICATION OF MARY BROWN FOR THE ENROLLMENT OF HERSELF, HER HUSBAND AND CHILDREN, AS CHEROKEE CITIZENS.

The said Mary Brown, being duly sworn, was examined by Commissioner C. R. Breckinridge and testified as follows:

Question: What is your full name, madam? A. Mary Brown.

Q. How old are you? A. Fifty-eight.

Q. In what district do you live? A. Delaware.

Q. What is your post office? A. Ketchum.

Q. Who is it you want to have put on the roll? A. My sons and myself and my husband.

Q. Where is your husband? A. He is here.

Q. Do you apply for yourself as a Cherokee by blood? A. Yes, sir.

Q. Is your husband a Cherokee by blood? A. No, sir.

Q. How long have you lived in the Cherokee Nation? A. All my life.

Q. When did you marry your present husband? A. I can't tell.

Q. Can't you remember the time? A. No, sir. My recollection is poor as I have got old.

Q. Well, you married him along about 1890, didn't you? A. I suppose that is it.

Q. What was your name when you married him? A. Ferrell.

Q. Wasn't your name Brown before you married him, too? A. That is what they called me; my name was Ferrell at that time.

Q. You were married under the name of Brown. A. We were married in the States and then we came back here and married in the Nation. We were first married in the states, and then we come here and married in the Nation as Cherokees.

Q. Your maiden name was what? A. Miller.

Q. Then, you were married once before this marriage, were you? A. Yes, sir.

Q. And the name of your husband was what? A. My husband's name was Ferrell.

Q. When did you first marry your present husband, Mr. Brown, in the states? A. About a year before the Cherokee marriage.

Q. Well, are you on the roll of 1880? A. Yes, sir.

Q. What name did you have then? A. Ferrell.

Q. What district were you in? A. Delaware.

Q. Now, you are on the roll of 1896 as a Brown? A. Yes, sir.

Q. Have you made your home in the Cherokee Nation ever since 1880? A. Yes, sir.

Q. How did you happen to marry again about 1889 in the states? A. We were just out there in the states and we just got married.

Q. You were not living there then? A. No, sir.

Q. You were just visiting there then? A. Yes, sir.

Q. About 1889 you married this man out there? A. Yes, sir.

Q. Then, you brought him back here? A. Yes, sir; but then we were both citizens here.

Q How long did you stay out there at the time you were married? A Along about three or four days is all.

Q Well, that wasn't very long? A No, sir.

Q Give me the name of your father, please.

A Dave Miller.

Q Cherokee or white man? A A white man.

Q Is he dead or alive? A He is dead.

Q How long since he died? A I couldn't tell you; I was a small child then.

Q What was your mother's name? A Ollie.

Q Cherokee or a white woman? A Cherokee.

Q Is she dead or alive? A She is dead. She died when I was a small child.

THOMAS BROWN, Being called and sworn by Commissioner C. R. Breckinridge, testified as follows:

Q Give your full name. A Thomas Brown.

Q How old are you? A I was born in 1853.

Q What is your post office? A Ketchum.

Q What is your district? A Delaware.

Q Are you the husband of this applicant here, Mary Brown? A Yes, sir.

Q You were married to her under the Cherokee law in 1890? A Yes, sir.

THE APPLICANT: (Mrs. Brown) I didn't give him any right. He was married before I saw him. We married as two Indians. You see there is no seal on that paper there. You see he was an Indian before that, and we were married as two Indians.

THE COMMISSIONER: The applicant presents a worn and partially destroyed Cherokee license and certificate. The preserved part states that a license is granted to Thomas Brown, a citizen of the United States to marry a citizen of the Cherokee Nation. It is issued by the Clerk of Illinois District on the 12th of July, 1880, and the certificate shows that he and his wife Catherine Cook were married by the Clerk on the same date. These papers are filed herewith.

Q Now, Mr. Brown, you are on the roll of 1880? A I don't know. I expect so.

Q Your wife, Catherine Cook, was a Cherokee, was she? A Yes, sir.

Q She is dead, is she? A Yes, sir.

Q When did she die, as well as you remember? A I am not educated. I couldn't tell you. About seventeen or eighteen years ago or twenty years ago.

Q How long did you and she live together after you married her? A About two years.

Q Then she died, did she? A ~~Examiner.~~ No, sir; we separated. I was on her place and she told me to get off, she wouldn't live with me any longer.

Q How long did she live after you separated? A Well, it was not long, sir. I couldn't just exactly tell you--about a year.

Q You lived with her two years and then separated? A Yes, sir. And then pretty soon she died.

Q Then did you ever marry after that until you married your present wife? A No, sir.

Q What was your present wife's name when you married her? A Mary Ferrell.

1880 Roll, page 259, No. 1065. Mary Ferrill, Delaware District.
1880 Roll, page 321, No. 153, Thompson Brown, Delaware District.
1880 Roll, page 305, No. 163, Catherine Brown, Illinois District.
1896 Roll, page 365, No. 45. Thomas Brown, Delaware District.
1896 Roll, page 441, No. 348, Mary Brown, Delaware District.

(EXAMINATION OF Mrs. Brown continued)
Q What is your child's name? A Henry Fenton Brown.
Q How old is he? A Fourteen years old.

1896 Roll, page 441, No. 346, Finton Henry Brown, Delaware District.

Examination of Mr. Brown by Mr. Joel L. Baugh, Representitive of the Cherokee Nation.
Q How long did you live with your wife after you married her? A Bout two years.
Q Where did you go to after you separated from her? A I came to the railroad.
Q Then where did you go? A I married this woman.
Q Where did you marry this woman? A Right here. Out in the states up at Coffeeville.
Q How long had you been living in the states at that time?
A I wasn't living there at all then sir. I just went up there
Q Did you leave your wife down yonder on the place? A Yes, sir.
Q Did you ever institute a divorce suit or a proceeding for a divorce? A No, sir.
Q Then, you married this woman without getting any divorce or anything? A Yes, sir.
Q And you moved out of the country and married her outside? A No, sir; I just went up there.
Q You had left the country before you married her? A I just went up there a day or two.
MR. HUTCHINGS (Counsel for Cherokee Nation) Where did you live in the intervening time, Mr. Brown, between the death of your wife and the marriage to this woman? A Right here in Vinita.
Q You always lived in the Indian Territory? A Yes, sir.

THE COMMISSIONER: The applicant, Mrs. Mary Brown, is identified on the rolls of 1880 and 1896, as a native Cherokee. She has lived in the Cherokee Nation all her life. Her change of name is accounted for by her marriage, which is established by her own and her husband's testimony. She will be enlisted now for enrollment as a Cherokee by blood. Her husband Thomas Brown acquires no rights through the present marriage, as he presents only a certificate of marriage and no license was procured. As regards the Cherokee marriage, he makes his claim through a marriage to one Catherine Cook in the year 1880, and presents a Cherokee license and certificate to that effect. The same are filed herewith. According to his own testimony they lived together some two years and he then left her. She died shortly after that time. He apparently has continued his residence in the Cherokee Nation, and was married to his present wife in 1889. It seems highly probable that, from the testimony, he abandoned his original Cherokee life, and by that act lost his Cherokee rights. For the present judgment will be suspended in his case in order to give the same fuller consideration and it will be carded on a doubtful card.
Q Mrs. Brown, whose child is this? A Mr. Brown's child.
Q Who is its mother? A It is my child.
Q You claim it as your own child? A Yes, sir; it is my child
Q And is the child living at this time? A Yes, sir.

THE COMMISSIONER:

The child Henry F. Brown is identified with its mother on the roll of 1896. She claims it as her own child, born before her Cherokee marriage to her husband, but it is entitled by blood to her rights, and the child will now be enlisted for enrollment as a Cherokee by blood.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in the above application, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

M. S. McCoker

Subscribed and sworn to before me this 24th day of September A. D. 1900.

C. R. Breckinridge Commissioner.

D317

Acting Chairman

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 18th 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Thomas Brown
CHEROKEE DOUBTFUL CARD, NUMBER -317-

Appearances:
Gale Starr for the Cherokee Nation, assisted by James S. Davenport.
Preston Davis attorney for the applicant.

Thomas Brown, the applicant, being first duly sworn before the Commission, testified as follows on his own behalf:

(By Mr. Davis)

Q State your name? A Thomas Brown.
Q How old are you? A About 48.
Q Where do you live? A On Grand river.
Q In the Cherokee Nation? A Yes sir.
Q How long have you lived in the Cherokee Nation? A 28 years I guess.
Q What was the name of your first wife? A Catherine Victoria Cook.
Q When were you married to her? A 28 or 4 years ago.
Q Have you filed your marriage license and certificate of your marriage to Catherine Victoria Cook with the Commission when you were before them the first time? A Yes sir.
Q How long did you live with this first wife? A About two years.
Q Where is she now? A Died right away after she quit me.
Q What was the cause of your separation? A She said she would not live with me any longer; she told me to get off the place, she wouldn't live with me any longer.
Q Who owned the place you were then living on? A My wife.
Q Did she own it before you married her? A Yes sir, it was her place that she got from a former husband.
Q Did you abandon her? A No sir, she quit me.
Q Did you give her any cause to quit you? A No sir.
Q What was her disposition, as to being quarrelsome or easy to get along with? A I couldn.t get along with her, she owned the place and I had no home, that was her place.
Q Have you been recognized by the tribal authorities of the Cherokee Nation as a citizen? A Yes sir all the time.
Q Have you ever voted in the Cherokee elections? A All the time except this last time.
Q Have you ever received any license or permit from the Cherokee tribal authorities for any purpose? A Yes sir, boat license.
Q What business have you been engaged in? A Running a ferry boat on Bolin's Ferry.
Q What are these papers? (Handing witness papers) A Ferry license.
(By Mr. Davis: " We would like to offer these papers in evidence."
(By the Commission: " Same will be filed "
(By Mr.Davis: " I would like to offer the Cherokee law on the subject of licenses and ferry business, taken from Sections 739 to 740 of the Compiled Laws of the Cherokee Nation for 1893, Article 32."
(By Mr. Starr: " The Cherokee Nation objects to the introduction of the license."
(By the Commission:" Objection will be noted a license ordered filed "
(By Mr. Davis of witness)
Q Who is your wife now? A Mary Brown.
Q Mary Brown and your children have been admitted to citizenship when they applied here last year? A Yes sir'
Q They are on the rolls? A Yes sir.
Q Mary Brown is a Cherokee by blood? A Yes sir.
Q You have some children by her? A Yes sir one little boy.

Q And you say they have been enrolled on a straight card? A Yes sir.

(By Mr. Starr)
Q Who owned the place that your first wife lived on when you married her? A It belonged to my first wife.
Q Did you leave that place when you left her? A She run me off.
Q And she remained in possession of that place? A Yes sir.
Q And kept it until she died? A Yes sir.

JOHNSON VANN being first duly sworn by the Commission, testified as follws on the part of the applicant:

(By Mr. Davis)
Q State your name? A Johnson Vann.
Q How old are you? A 58.
Q Where do you live? A East of Choutean.
Q What is your citizenship? Cherokee.
Q Freedman? A Yes sir.
Q How long have you been living east of Choutean? A About 38 years.
Q Do you know Thomas Brown, the applicant in this case? A Yes sir.
Q How long have you known him? A About 19 years.
Q Where did he live in reference to where you are living? A South of me, close to Grand river, six miles below Fort Gibson.
Q How far from you? A 16 miles.
Q Did he ever live nearer to you than that? A Yes sir when he worked on the railroad.
Q How near did he live to you then? A He was working on the Section and lived at the Section house between Lillyetta and Gibson Station .
Q How far from you? A 18 miles.
Q Did you know his first wife? A Yes sir.
Q What was her name? A The widow Cook.
Q Do you know where Thomas Brown was living when he lived with his first wife? A Six miles below Fort Gibson, in the cane brake bottom.
Q When did they marry? A In 1880.
Q How long did they live together? A About two years.
Q Were you around the place there when they were living there? A Yes sir.
Q Have you had any dealings with Brown? A Yes sir.
Q Did you go there in the summer or fall of '83, to see Brown? A Yes sir
Q Did you find him at home that time? A No sir.
Q Who did you see that time? A Mrs. Brown.
Q Did you have any conversation with her as to where Brown was? A Yes sir.
Q What was it? A I asked her where he was and she said he was not there, and I asked her when he would come back and she said " What do you want with him" and I told her I came there to see him about buying a yearling, and she said " The old Devil is not here and he wont be back any more, I run him off, and then I asked her where he was and she said " I dont know " I was owning Mr. Daniels some money and he had come to see me about paying it and I didn't have the money and I told him that we would go to see Mr. Brown and that he would buy some yearlings that I had, and when we didn't find Brown at home we went back and I made other arrangements .
Q Mrs. Brown, who had been the widow Cook, told you that she had run Brown off and told you that the old Devil had left? A Yes sir.
Q What was her manner at that time, was she in a good humor or otherwise? A No sir she was not in a good humor, she seemed kind a worked up and mad.
Q Did you know her when she was Mrs. Cook? A Yes sir.
Q How many years before Brown married her did you know her? A Seven or eight years before she married Brown.
Q Whatwas her citizenship? A Cherokee.
Q By blood? A Yes sir.
Q What was her disposition as to being high strung or otherwise? A I didn't know much about the lady, but when I was talking with her there she looked like she was a little Rough and high strung then.
QWhere is she now? A Dead.
Q How long after this did she die? A She lived at the same place with

Q How long after this did she die? A She lived at the same place with one of the Bolins a while and she sent him off and then she died.
Q How long have you known Brown ? A 18 years.
Q What sort of a man is he? A I have always found Mr. Brown one of the most agreeablest men I have ever met.
Q Have you had business dealings with him ? A Yes sir.
Q What kind of a man have you found him to be with reference to your dealings with him, was he hard to get along with or otherwise? A I always found him a good quiet sort of man, never gives any one any trouble in dealing with him, I have always found him a good dealer.
(By Mr. Davenport)
Q Do you mean by a good dealer, that he dont stack any hands on you when he deals? A Yes sir deals with you on the square.
Q How long have you known him? A 18 or 20 years.
Q Where was he living when you first knew him? A Just below Fort Gibson
Q What had he done to his wife that made her sam rile up that day you were talking to her? A I dont know.
Q You know very little about how they got along together dont you? A No sir I dont know much about it.
Q You just happened to be down there that time and thought she was riled when she was talking to you? A Yes sir.
Q Was he running a ferry at that time? A No sir.
Q He left his wife anyway? A He said that he left.
Q Well, they didn't live together after that? A No sir.
Q Brown vacated and she remained? A Yes sir.

L. D. DANIELS, being first duly sworn by the Commission testified as follows on the part of the applicant-

(By Mr. Davis)
Q What is your name? A L. D. Daniels.
Q How old are you? A 56.
Q Where do you live? A Postoffice Claremore—no—Lenapah.
Q What is your citizenship,Cherokee freedman? A Yes sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know Thomas Brown, the applicant in this case? A Yes sir.
Q How long have you known him? A 18 years.
Q Did you ever live near him? A No sir not near him.
Q Did you know his first wife? A Yes sir.
Q What was her name before he married her? A Cook.
Q Widow Cook? A Yes sir.
Q Where did Thomas Brown live when he was living with his first wife.
Caroline Victoria Cook? A I will have to explain myself, I was living near Whiskey Ford , just above the mouth of Fourteen Mile Creek—
Q What direction from Fort Gibson? A 7 or 8 miles north east of there.
Q Do you know about what time he married this widow Cook? A No sir.
Q Did you ever go over there on any business? A Yes sir.
Q Who went with you? A Johnson Vann
Q Why did you go there? A I was owning a man named Reed $50.00 and I had loaned Johnson Vann some money and when Reed wanted me to pay him I didn't have the money and went to see Johnson about getting what he owed me, and he said he knowed where he could sell some yearlings and get the money he owned me.
Q Well where did you go to? A To Browns.
Q When did you go there? A In '83.
Q Did you see Brown there? A No sir.
Q Who did youuse there? A Mrs. Cook, she was there, I didn't know then that she was Mrs. Brown. We asked for Brown and she said he was not there, and Johnson Vann said " When will he get back" and she said " I have drove him off from here and he want never be back here " and then I told Johnson Vann, " What am I going to do about my money" and he said " I will have to make other arrangements " and we rode off.
Q That was the widow Cook,then Mrs. Brown? A Yes sir.
Q Did you know her before she married Brown? A Yes sir.
Q You say you have known Thomas Brown for 18 years? A Yes sir.
Q What kind of a man is he as to being peaceable and easy to get along

with or otherwise? A Seemed to be a very nice man.
Q Is he high tempered or an easy going man? A Always seemed to be a very nice man with me.
Q Had you had business dealings with him up to that time? A No sir, not selling stock or that.
Q But you have known him? A Yes sir.

BY MR. DAVENPORT: " The Representatives for the Cherokee Nation object to the introduction of the above testimony for the reason that it is incompetent and irrelevant and is only hearsay."

BY THE COMMISSION: " Objection will be noted and the testimony considered for what it is worth "

(By Mr. Davenport of the witness)

Q How near have you lived to the applicant Brown within the last 15 or 20 years? A I lived on the Virdigris river where I am living now, and he lived on Grand river.
Q How far is that? A 50 or 60 miles.
Q How long has it been since you first knew Brown? A 17 years since I saw him first.
Q Within the last 15 or 20 years how near is the nearest you and he have lived together? A About 45 miles, I never lived near Brown, I lived near his first wife, I lived near her when I lived on Fourteen Mile Branch.
Q Did you ever live near Brown? A No sir.
Q (By Mr. Davis)
Q But you have known him during all this time? A Yes sir.
Q And knew his first wife? A Yes sir, I knowed the woman.
(By Mr. Davenport)
Q You dont know anything about her except by hearsay do you? A She said herself that she had run him off.
Q She didn't say that she and Brown were married did she? A No sir.
Q She is dead now? A Yes sir.
Q Where is that other fellow that went with you to Brown's? A Johnson Vann, he was just here and testified.
Q That was the only time that you were at Brown's house? A I have been to that house several times.
Q You dont know how Brown treated this woman? A No sir.
(By Mr. Davis)
Q This was her place before she married Brown? A Yes sir.
Q She fell heir to it when her first husband died? A I dont know.
Q They lived there? A Yes sir.

* * * * * * * * *

Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 16th of October, 1901.

Commissioner.

Cherokee D-317.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 16, 1901.

In the matter of the application of Thomas Brown for enrollment as a Cherokee by intermarriage.

Supplemental testimony on behalf of the applicant.

Appearances:
Preston S. Davis, attorney for applicant;
Cherokee representatives present.

MARTHA BALDRIDGE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Davis: State your name? A Martha Baldridge.
Q What is your age? A 47 years old.
Q What is your citizenship? A By adoption.
Q Cherokee by adoption? A Yes, sir.
Q What is your husband's name? A Johnson Baldridge.
Q What is his citizenship? A Cherokee.
Q How? A By blood.
Q How much blood has he got in him? A Passes as a full blood.
Q Where do you live, Mrs. Baldridge? A I live about nine miles or ten southeast of Wagoner.
Q Did you know Caroline Cook in her life time? A No, she always went by the name of Catherine Cook, or Kate, Kate Cook is generally what we called her.
Q When did you get to knowing her? A I don't know how long it has been, it has been a long time.
Q Where did she live? A Right here on the river by me.
Q About how far? A Mile and a half or two.
Q Were you intimately acquainted with her? A Yes, sir.
Q What relation were these Cooks, this notorious Cook gang, to her?
A Her sons.
Q Did you ever have any conversations with her in regard to her husband, Thomas Brown? A I didn't never hear her say anything about Thomas Brown, I heard her say she run a white man off by the name of Brown.
Q Heard her say she ran a white man off by the name of Brown?
A Yes, sir.
Q Go ahead and state what else was said? A Said he was a white man and she was going to run him off and her a Cherokee.
Q How many times did she say that? A Several times, she was at my house every day or two.
Q Did she get a Cherokee? A Yes, sir.
Q Who did she get? A Lewis McDaniel.
Q Do you know whether she married him or not? A Yes, sir.
Q She lived with him? A Yes, sir, until her death.
Q How many years did she live with this Cherokee after she ran Brown off? A I don't know how many years it was for I never paid no attention.
Q Well about how many? A Well I can't state.
Q Four or five or six years? A Oh yes it was a good while, several years, but I can't state how many years.
Q Where is this woman now? A She is dead.
Q You know Mr. Brown? A No, sir, don't know him.
Q Got no interest in this suit? A No, sir, don't know nothing about it, never saw this lady neither.
Q Never saw Brown's wife, his present wife? A Never saw her till she came down our way.
Cherokee representative: Where do you live? A I live ten miles southeast of Wagoner.
Q How far from Grand river? A About two miles.
Q You been living there ever since Mrs. Cook was born? A No, sir, I haven't, I don't know when she was born, I got acquainted with her there.

Q When did you move over in that country? A I have been in that neighborhood five miles of there for about 35 years I guess.
Q Mrs. Sook is dead? A Yes, sir.
Q You don't know Brown? A No, sir, I don't know Brown.
Q You don't know him? A No, sir.
Q You don't know who she was talking about when she said she run Brown off? A No, only just that is all, she just said she married a white man and she run him off, by the name of Brown.
Q You don't know whether this is the man in question or not? A No, I don't know whether this is the one or not.

Commissioner: This will be filed with Cherokee D card 317.

****

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 16th of October, 1901.

Commissioner.

Supl.C.-D.#317.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 28th, 1901.

SUPPLEMENTAL PROCEEDINGS in the matter of the enrollment of THOMAS BROWN as a Cherokee citizen:

Appearances:
Mr. P. S. Davis, Attorney for applicant;
Mr. W. W. Hastings, for Cherokee Nation.

Mr. Davis: The applicant offers in evidence Section 5 of Article 3, amendments to Cherokee Constitution approved in general convention of the Cherokee people at Tahlequah, on the 28th of November, 1866, found on pages 33 and 34 of the compiled laws of the Cherokee Nation, edition of 1892.

Also Article 16 entitled "Intermarriage of White Men and Foreigners," Section 659-69 inclusive, pages 329 to 334 inclusive of the compiles laws of the Cherokee Nation, edition of 1892.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 28th, 1901.

Commissioner.

Supl.-C.D.#317.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of THOMAS BROWN as a citizen of the Cherokee Nation:

Mr. W. W. Hastings, Cherokee Representative present.

The applicant and his attorney, Preston S. Davis, Vinita, Indian Territory, were notified by registered letter February 6, 1902, that this case would be taken up for final consideration by the Commission on the 24th day of February, 1902, and that they could on said date appear and introduce any further testimony affecting this case. Receipt has been acknowledged of Commission's letter both by the applicant and his attorney. They have been called three times and fail to respond and the case is ordered closed and submitted to the Commission for final consideration based upon the evidence now on file.

Commissioner.

J.O.R.

Cherokee D-317.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 5, 1902.

In the matter of the application of Thomas Brown for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:- Mary Brown, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Mary Brown.
Q What is your age? A About sixty-two.
Q What is your postoffice? A Ketchum, I. T.
Q Are you a citizen by blood of the Cherokee Nation? A Yes sir.
Q What is your husband's name? A Thomas Brown.
Q Is he a citizen by blood or intermarried citizen? A Intermarried.
Q What is his age about? A About 49 I believe, I aint sure.
Q Is he the same Thomas Brown for whom application was made to this Commission for enrollment as an intermarried citizen on September 17, 1900? A Yes sir.
Q When were you and Thomas Brown married? A I couldn't say what year.
Q About how long ago? A About fourteen years ago.
Q Were you and he married under a Cherokee larriage license? A No sir.
Q Had you ever been married prior to your marriage to Thomas Brown? A Yes sir.
Q Had he ever been married prior to his marriage to you? A Yes sir.
Q How many times have you been married? A Lawfully married once before him.
Q Was that husband living or dead when you married Thomas Brown? A Dead.
Q How many times had Thomas Brown been married before he married you? A Once.
Q Was his first wife living or dead when he married you? A She was dead.
Q Was his first wife a Cherokee or white woman? A Cherokee.
Q Do you know whether he was married to her under a Cherokee license? A Yes sir, the Commission has his license and certificate.
Q Did Thomas Brown and his first wife live together from the time they were married up until the time of her death? A No sir.
Q They were separated? A Yes sir.
Q How long were they separated before that wife died? A I couldn't tell you exactly; she has been dead about eighteen years; she has been dead about twenty years.
Q Do you know anything about what the cause of the separation was? A Not only what we have proven by other witnesses; I wasn't a neighbor to them. I have only seen the papers.
Q Then you couldn't testify anything at all of your own knowledge what you say about his separation? A No sir, not positively, only just what I have heard and what we have proven.
Q Well now, you and Thomas Brown have lived together ever since your marriage up until the present time? A Yes sir.
Q You and he haven't been separated? A No sir.
Q You were living together on the first day of September, 1902? A Yes sir.
Q Do you know how long Thomas Brown has lived in the Cherokee Nation? A No sir, I don't know for certain.
Q Has he lived here for the last fourteen years? A For the last twenty years that I know of.
Q All the time? A Yes sir, makingthis his home for the last twenty years.
Q Never lived out of the nation for the last twenty years? A No sir.

Frank Smith, being sworn and examined by the Commission, testified as follows:
Q What is your name? A Frank Smith.
Q What is your age? A Twenty years.
Q What is your postoffice? A Ketchum, I.T.
Q Do you know Thomas Brown who is an applicant before this Commission for enrollment as an intermarried citizen? A' Yes sir.
Q How long have you known him? A Ever since '92.
Q Did you know him when he and his first wife were living together?
A No sir.
Q What do you want to testify about? A I don't know.
Q You know that Mr. Thomas Brown and his present wife Mary Brown were living together as husband and wife on the first day of September, 1902? A Yes sir.
Q And they were living in the Cherokee Nation? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothesberger

Subscribed and sworn to before me this 20th day of October, 1902.

B. E. Jones
Notary Public.

Cherokee B-317.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 2, 1902.

In the matter of the application of Thomas Brown for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

Preston S. Davis, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Preston S. Davis, age 32, postoffice Vinita.

Q Are you acquainted with Thomas Brown, an applicant for enrollment as an intermarried citizen? A Yes sir.

Q How long have you known him? A For several years, some three or four years.

Q You can make your statement? A I knew him at the time of his application; he was living with his present wife at that time and was living with her on the first day of September, 1902, and is still living with her; they live on Grand River and run a ferry-boat at the Island Ford; I know he has never forfeited his citizenship in the Cherokee Nation by marrying out since the date of his application.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E G Rothenberger

Subscribed and sworn to before me this 21st day of October, 1902.

B O Jones
Notary Public.

Cherokee D-317.

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

In the matter of the application for the enrollment of Thomas Brown as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

--:o:--

The record in this case shows that on September 17,1900, Mary Brown appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of Thomas Brown as a citizen by intermarriage of the Cherokee Nation. The other parties to the application are differently classified and are not embraced in this decision. Further proceedings were had in the matter of said application at Vinita, Indian Territory, on October 12, 1901, October 16, 1901, and on October 26, 1901, and again at Muskogee, Indian Territory, on October 3, 1902.

The evidence in this case shows that Thomas Brown, a white man, was lawfully married, under authority of a Cherokee marriage license, on July 12, 1880, to Catherine Cook,a citizen by blood of the Cherokee Nation. Thomas Brown and his said wife, Catherine Brown, lived together for about two years and then separated, the wife of the applicant "running him off the place". Two years after their separation, Catherine Brown died. The said Thomas Brown is identified on the Cherokee Census Roll of 1896.

Section twenty-one of the Act of Congress approved June 28, 1898,(30 Stats.,495) provides for the enrollment of Cherokee citizens "with such intermarried white persons as may be entitled to citizenship under Cherokee laws".

Section 666 of the Compiled Laws of the Cherokee Nation (1892) is as follows:

"Should any man or woman, a citizen of the United States, or of any foreign country, become a citizen of the Cherokee Nation by intermarriage,and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person, (as the case may be),having no rights of Cherokee citizenship by blood; in that case,all of his or her rights acquired under the provisions of this act shall cease".

The evidence in this case shows that the applicant secured rights of Cherokee citizenship through intermarriage with his first wife, Catherine Cook, and that subsequent to her death he married his present wife, Mary, a Cherokee citizen by blood.

The evidence further shows that said Thomas Brown has lived continuously in the Cherokee Nation for twenty-eight years, and was a resident therein and the lawful husband of his said wife, Mary, on September 1, 1902.

It is, therefore, the opinion of this Commission that Thomas Brown should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1896, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Acting Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee I. T. December 19th 1902.

In the matter of the application of Thomas Brown for enrollment as a citizen of the Cherokee Nation by intermarriage.

Cherokee D 317.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation and most respectfully protests aginst the decision of the Commission in this case rendered on Dec 10 1902 and asks that same be forwarded to the Honorable Secretary of the Interior for review.

The testimony in this case shows that the applicant married his first wife who is a citizen of the Cherokee Nation by blood; he lived with her but a short time and left her; and left her upon the place which she continued to occupy until her death a short time afterwards. Twenty years have past and now ~~[illegible]~~ after his first wife has long since been dead and after he has employed Preston S Davis as his attorney, the applicant who is a white man brings two darkies, Johnson Vann and L. D. Daniels who were standing witnesses before the Commission in numerous freedmen cases to prove that applicants first wife "ran him away from home." If his first wife was a woman of such very high temper and had really made him leave home it would seem that this applicant who is alive and active could get some reputable neighbors to come before the Commission and testify to that fact. It will be noted that applicants first wife, who is dead, can not be brought before the Commission to testi fy and for that reason her testimony is not produced and for that reason also this testimony should be most carefully enquired into.. He admits that he left her home and he admits that she continued to occupy the same place which she owned prior to their marriage until her death and there is no evidence whatever to show that the applicant ever made any effort to get his first wife to live with him after their separation. Neither is

there any evidence that he showed her any attention during her last illness or that he attended her funeral and in as much as we do not believe that the applicant is corroborrated by reputable witnesses. We most respectfully dissent from the opinion rendered by the Commission in this case and ask that the same be forwarded to the Honorable Secretary of the Interior for review.

Respectfully submitted,

W W Hastings
Attorney for the Cherokee nation.

Attest:

J O Starr
Stenographer for the Cherokee Nation.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-317.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Mary Brown for the enrollment of her husband, Thomas Brown, as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-253.

B09

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 317.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, December 23, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 10, 1902, granting the application of Mary Brown for the enrollment of Thomas Brown as a citizen by intermarriage of the Cherokee Nation, a copy of which decision was furnished you on December 15, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-317

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, February 26, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 10, 1902, granting the application of Thomas Brown for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, was affirmed by the Secretary of the Interior on February 10, 1903.

Respectfully,

Chairman.

IN THE MATTER OF THE APPLICATION OF

317

Thomas Brown

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 17, 1900

B. Mem. of application - " 7, 1900

C. Receipt of attorney for testimony

Ferry Lincoln

E. Supplemental testimony Oct. 12, 1900

F. Supplemental testimony Oct. 16, 1900

Supplemental testimony 10/26/01

Notice of final consideration

D Order closing testimony, Feb. 24, 1902

See Cherokee Jacket 2875

Indexed and translated

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Cher D 318

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 17th, 1900.

IN THE MATTER OF THE APPLICATION OF JAMES F. CRITTENDEN FOR THE ENROLLMENT OF HIMSELF AND ONE CHILD AS CHEROKEE CITIZENS.

The said James F. Crittenden, being duly sworn by Commissioner C. R. Breckinridge, testified as follows:

Question. What is your full name?
Answer. James F. Crittenden.
Q How old are you? A Twenty-six years old.
Q What is your post office? A Rose, I.T.
Q What district do you live in? A Delaware
Q Who is it you want to have put on theroll? A Myself and one child.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q How long hve you lived in the Cherokee nation? A Since 1889. I was born in the Cherokee Nation, though.
Q Are you a readmitted citizen? A Yes, sir.
Q Give me your certificate of admission. A I haven't got it.
Q Where is it? A It is down at Tahlequah I recken.
Q When were you admitted? A Either in 1880 or 1881, by the Court of Commissions.
Q You have lived in the Cherokee Nation ever since then? A Yes, sir.
Q What is the name of yourfather? A Henry Crittenden.
Q Is he dead or alive? A He is dead.
Q Cherokee? A Yes, sir.
Q How long since he died? A He died the year the war closed.
Q Your mother's given name? A Lecta.
Q Cherokee or white woman? A Cherokee.
Q Dead or alive? A Dead.
Q How long since? A She died the witner of 1889.
Q Give me the name of yourchild, please. A Lecta.
Q How old is that child? A Ten years old.
Q What is the name of its mother? A Elizabeth.
Q This is your own child? A Yes, sir.
Q Its deceased mother's name when you married her was what? A Elizabeth Butler.
Q Was that her maiden name? A Yes, sir.
Q When did you marry her? A I don't exactly remember. I think it was in 1889, somewhere alongthere--ten years and better ago.
Q When did she die? A She died five years ago it will be the next february coming.
Q Cherokee was she? A Yes, sir.
Q She is enrolled in1880 as a Butler? A Yes, sir.
Q How old was your wife when she died? A Twenty-seven or eight, somewhere along there.

1880 Roll, page 222, No. 176, Elizabeth Butler, Delaware District.

1896 Roll, page451, No. 634, James F. Crittenden, Delaware

District.
1896 roll, No. 635, page 451, Lecta Crittenden, Delaware District.

Q Have you some one here who knew that you were married to Lecta Crittenden? A Yes, sir; here is Mr. Ballard.

R. BALLARD, beingcalled and sworn by theCommissioner testified as follows:

Q What is your full name?
A R. Ballard.
Q What is your age? Forty-six.
Q What is your post office? A Needmore.
Q How long have you lived in the Cherokee Nation? A About thirty-six years.
Q Do you know the applicant here? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q What was her maiden name? A Elizabeth Miller.
Q Did she marry him some ten or eleven years ago? A Yes, sir; something like that.
Q She left one child? A Well, that is all I remember of.
Q Youdo remember one child? A Yes, sir.
Q That one was her child of this marriage? A Yes, sir.

THE COMMISSIONER: The applicant applies for the enrollment of himself and one child. He claims to have been admitted by the Cherokee Commission on Citizenship in 1881, but does not produce at this timeevidence of that admission. He is identified on the roll of 1896, and has lived in the Cherokee Nation ever since his alleged admission in 1881. He will at present be placed upon a doubtful card in order to await the production by him of official evidence of his having been admitted as claimed. His child, Lecta, is identified with her father on the roll of 1896. She is shown to be the child of his deceased wife, a Cherokee woman, who is identified on the roll of 1880, and who died some five years ago. This child is living with her father at this time, and till be listed now for enrollment as a Cherokee by blood.

Applicant excused.

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The undersigned being duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony andother proceedings in this case, and that the foregoing is a correct and complete transcript of hisstenographic notes thereof.

M. S. Meeshan

Subscribed and sworn to before me this 24th day of September A. D. 1900.

C. M. Rice
Comm.

8318

Supplemental--D 316,

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Claremore, I.T. October 24th, 1900.

SUPPLEMENTAL PROCEEDINGS IN THE MATTER OF THE APPLICATION OF JAMES F. CRITTENDEN FOR ENROLLMENT. ON DOUBTFUL CARD 316.

COMMISSIONER T. B. NEEDLES: Comes the applicant and presents a certified copy of the records of the Cherokee Nation, being a copy of a certificate from the Commission on Citizenship, dated Tahlequah, September 17th, 1880, case 521, showing that the said James Crittenden, amongothers, is entitled to Cherokee citizenship; said certificate being signed by Roach Young, President, William Harnage and G. W. Mayes, assistant commissioners. The certificate from the executive office of the Cherokee Nation signed by B. W. Alberty, assistant executive secretary, under the Seal of the Cherokee Nation, certifies as to the correctness of the record. Said certi ficate is ordered filed with the papers herein.

This being satisfactory proof of the citizenship of the said James F. Crittenden, he should now be listed for enrollment as a Cherokee citizen by blood on a straight card.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the supplemental proceedings in this application for enrollment at the time and place abovementioned, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm T. Wilkerson

Subscribed and sworn to before me this 24th day of October A D. 1900.

C H Mellette

Commissioner.

2388

CHEROKEE B 318.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of James F. Crittenden, for enrollment as a Cherokee citizen.

On the 17th day of September, 1900, James F. Crittenden appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of himself and one child as citizens by blood of the Cherokee Nation.

At the conclusion of the evidence the child was listed for enrollment on a regular card and the name of James F. Crittenden was placed upon a "Doubtful" card awaiting proof of his citizenship in the Cherokee Nation.

Further evidence has been submitted to the Commission and the following decision is rendered.

D E C I S I O N.

--oOo--

From all the evidence of record in this case it appears that the applicant, James F. Crittenden was admitted to all the rights of citizenship in the Cherokee Nation on the 17th day of September, 1880, by a Cherokee Commission on Citizenship. He has resided continuously in the Cherokee Nation since the date of his admission and is identified on the Cherokee Census roll of 1896.

This Commission in making rolls of citizenship of the Cherokee Nation is governed by the following provisions of the Act of Congress approved June, 28,1898 (30 Stats., 495);

" That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the Roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who

have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted, and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

In view of the facts and the law in this case it is considered that James F. Crittenden is entitled to be enrolled as a citizen by blood of the Cherokee Nation, and it is so ordered.

C. R. Breckinridge.

Dated at Muskogee, Indian Territory,
JUN 9 - 1902

Disallowed

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cher. D-515.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of James F. Crittenden for enrollment as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the person above named as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-515.

James F. Crittenden

Transferred to Cherokee 9556

Cher D 319

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPT., 17, 1900.

In the matter of the application of Robert F. Thompson for enrollment of himself, wife and two children, as citizens of the Cherokee Nation, said Thompson being sworn by Commissioner Needles, testified as follows:

Q What is your name? A Robert F. Thompson.
Q Your age? A 29.
Q Your postoffice? A Valeda, Kansas.
Q What district do you live in? A Coowescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A yes.
Q By blood? A yes.
Q What degree of blood do you claim? A Thirty-second.
Q Do you reside in the Cherokee Nation? A yes.
Q How long have you lived in the Cherokee Nation continuously? A Since '8.
Q Is your name upon the authenticated roll of '80? A No sir, I came here in '81.
Q By what right do you claim citizenship? Have you been readmitted? A yes.
Q Have you any certificate of readmission? A No sir, my father has that.
Q For whom do you apply for citizenship? A Myself, wife and two children.
Q What is your father's name? A James W. Thompson.
Q Is he living? A Yes.
Q Is he a Cherokee by blood? A Yes.
Q What is your mother's name? A Sarah A.
Q Is she living? A Yes.
Q Is she a citizen by blood? A No sir.
Q What is your wife's name? A Paralee.
Q Is she a citizen by blood or a non-citizen? A Non-citizen.
Q What was her name before you married her? A Lain.
Q When were you married? A October '93.
Q Have you certificate of marriage? A yes.
Q What are the names of your children? A James W., 3 years old.
Q Next? A Lark A., 1 year old.
Q Have you any proof of birth as to these children? A I can get some personal proof.

You will have to bring your certificate of admission, Mr. Thompson.

Applicant on '96 roll, page 1254, number 3372.
Applicant's wife on '96 roll, page 1290, number 267, as Parlea.

The name of Robert F. Thompson appears upon the census roll of '96, and he presents certificate of marriage certifying to his marriage with one Paralee Lane, a white person, in October '93, and her name is found upon the census roll of '96 as Parlea Thompson. He avers that he has two children living as the result of said marriage, one named James W., and Lark A., whose names do not appear upon the roll of '96, they not being old enough, but no proof of birth is presented. No proof of citizenship is presented as to the enrollment of said applicant, though he avers that his father was admitted by special act of the Cherokee council; therefore, final judgment as to the application of the said Robert F. Thompson for enrollment of himself, wife and children, will be placed upon a doubtful card awaiting proof of citizenship to be presented and also proof of birth as to his children.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B McDonald

Subscribed and sworn to before me this 19th day of September, 1900.

C Wheeler

Commissioner.

D 319

Supl.-C.D. 319.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of ROBERT F. THOMPSON as a citizen of the Cherokee Nation:

Mr. W. W. Hastings, Cherokee Representative, present.

The applicant was notified by registered letter February 6, 1902, that his application would be taken up by the Commission for final consideration on the 24th day of February, 1902, and that he could on said day appear before the Commission either in person or by attorney and introduce any further testimony affecting his case. Receipt has been acknowledged of Commission letter; the applicant called three times and fails to respond either in person or by attorney and the case is ordered closed and submitted to the Commission for final decision based upon the evidence now on file.

The attorney for the applicant, S. F. Parks, Vinita, Indian Territory, has been given ten days in which to file a brief in this case, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

Commissioner.

J.C.R.

Cherokee D-519.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 20, 1902.

In the matter of the application of Robert F. Thompson for the enrollment of himself and children, James W., Lark A., and John Lewis Thompson, as citizens by blood, and for the enrollment of his wife, Fairlee Thompson, as a citizen by intermarriage of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A Robert F. Thompson.
Q What is your age? A Thirty-one years old.
Q What is your postoffice? A Valeda, Kansas.
Q You are an applicant for enrollment as a citizen by blood of the Cherokee Nation are you? A Yes sir.
Q What is your wife's name? A Fairlee Thompson.
Q What is her age? A Twenty-six.
Q Is she an applicant for enrollment by intermarriage? A Yes sir.
Q When were you married to your wife, Fairlee? A I was married in '93.
Q Under Cherokee license? A No sir, I was married under United States license; I had two sets of license.
Q Had you ever been married before you married this wife? A No sir.
Q Had she ever been married before you married her? A No sir.
Q Have you and your wife, Fairlee Thompson lived together al the time since your marriage in '93 up to the present time? A Yes sir.
Q Never been separated? A No sir.
Q Living together as husband and wife on the first day of September, 1902? A Yes sir.
Q She has never married any other man? A No sir.
Q How long have you lived in the Cherokee Nation? A I have been in the Cherokee Nation twenty-one years last March.
Q All the time for twenty-one years? A Yes sir, lived there.
Q Has your wife, Fairlee, lived with you in the Cherokee Nation since your marriage up to the present time? A Yes sir.
Q These children, James W., Lark A., and John Lewis, your children by your wife, Fairlee? A Yes sir.
Q Are they all living at this time? A Yes sir.
Q Have they lived in the Cherokee Nation all their lives? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

R. G. Rothenberger

Subscribed and sworn to before me this 19th day of November, 1902.

B. A. Jones
Notary Public.

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES, MUSCOGEE, INDIAN TERRITORY.

In the matter of the application for the enrollment of Robert F. Thompson, his wife and two children.

ARGUMENT IN BEHALF OF APPLICANTS.

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The applicant, Robert F. Thompson, is identified on the roll of 96, as a Cherokee by blood. Page 1254. No. 3372. The applicants wife, Parlea Thompson, as shown by the testimony has been properly identified on the 96 roll. Page 1290. No. 867.

The testimony discloses the fact that these applicanst were legally married in October 1895 and that a proper showing has been made by birth affidavits that the two children, James W., three years old and Lark A. one year old, were born in lawful wedlock.

The applicant as shown by his testimony, is a North Carolina Cherokee. He has been identified as the son of James W. Thompson, who hold the certificate of re-admission of himself and family, uncluding this applicant. (Reference is made to the Certificate filed by James W. Thompson in his case)

The applicants name appears upon the list of North Carolina Cherokees, who were admitted by the Cherokee Council, together with the name of his father, James W. Thompson and the other members of the family.

"No 3 Robert F. Thompson, aged 10 "

Thus showing conclusively that the status of the applicant, Robert F. Thompson, is identical withthat of all other North Carolina Cherokees and if any of the Cherokees known as the "North Carolina Cherokees, are to be enrolled, it is incumbent upon the commission to enroll the applicant, Robert F. Thompson as a Cherokee by blood and his wife, Parlea as an adopted citizen and their two minor children, James W. and Lark A. as Cherokees by blood.

S. J. Parks
Attorney for applicant

Cherokee D._ 519.

BEFORE THE COMMISSION TO
THE FIVE CIVILIZED TRIBES.

- - - - : - - - -

In the matter of the application
for the enrollment of Robert F.
Thompson, et. al.,

- - - - - : - - - - - -

ARGUMENT IN BEHALF OF
APPLICANTS.

S. F. Parks,

Attorney for applicants.

Cherokee D 319

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES. Y.A.L.

In the matter of the application of Robert F. Thompson for the enrollment of himself and his two minor children, James W. and Lark A. Thompson as citizens by blood of the Cherokee Nation, and for the enrollment of his wife Fairlee Thompson as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

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The record in this case shows that on September 17, 1900, the applicant, Robert F. Thompson, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself and his two minor children, James W. and Lark A. Thompson as citizens by blood of the Cherokee Nation and for the enrollment of his wife, Fairlee Thompson, as a citizen by intermarriage of the Cherokee Nation. Thereafter, on February 24, 1902, at Muskogee, Indian Territory, the applicant not being present according to notice, the case was ordered closed and submitted to the Commission for final consideration.

The applicant, Robert F. Thompson, is not on the Cherokee authenticated tribal roll of 1880. The evidence shows that he came to the Cherokee Nation with the North Carolina Cherokees in 1881 under an act of the National Council of the Cherokee Nation of 1880, and has lived there continuously since that time. On October 1st, 1893, he married Miss Fairlee Lane, named in the marriage license "Faralee Lane." The names of the applicant, Robert F. Thompson, and of his wife, as "Farlee Thompson", appear on the Cherokee Census roll of 1896. Proof of the births of the children of the applicant, Robert F. Thompson, and his wife, Fairlee Thompson, James W. Thompson, born May 6, 1897, and Lark A. Thompson, born September 7, 1899, has been furnished this Commission. Subsequent to the date of this application another child, John Lewis Thompson by name, was born, on December 8, 1901, and proper proof of his birth has been furnished this Commission.

The authority of the Commission herein is defined in Paragraph 1, of Section 21, of the Act of Congress, June 28, 1898. (30 Statu., 495.)

It is therefore the opinion of this Commission that Robert F. Thompson, James W. Thompson, Lark A. Thompson, and John Lewis Thompson are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that Fairlee Thompson is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be granted, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this JUN 9 - 1902

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALDSON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cher. D-319.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of Robert F. Thompson et al. for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the persons above named as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-319.

IN THE MATTER OF THE APPLICATION OF

[illegible] Thompson

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 17, 1900
B - Merits of application " 17, 1900
C - Marriage License and Certificate
D - Birth affidavit James H. Thompson
E - " " Park H. "
F - Certificate identifying applicant as N.C. Cherokee

K. Application to file an argument & brief

& Argument in behalf of applicant

M Order closing testimony, Feb. 24/02

Cher D 320

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., September, 17, 1900.

In the matter of the application of William P. Sager for enrollment as a citizen of the Cherokee Nation, said Sager being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A William P. Sager.
Q Your age? A 49.
Q Your postoffice address? A Grove.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, byb intermarriage.
Q Your father and mother are non-citizens? A Yes.
Q How long have you lived in the Cherokee Nation? A 18 years.
Q Continuously? A Yes.
Q What is the name of your wife? A Mary Ann Cheek, when I married her.
Q Is she a Cherokee by blood? A Yes.
Q What degree of blood? A One-eighth.
Q What is the name of her father? A Pleas Cheek.
Q Is he living? A No sir.
Q What is the name of her mother? A Sarah.
Q Is she living? A Yes.
Q Whom do you apply for for enrollment. A Myself.

Applicant on '96 roll, page 588, number 494.

Q Are you living with your wife? A No sir.

By W. W. Hastings, Cherokee Attorney:
Q Why aren't you living with her? A She quit me.
Q She quit you because you would not support her? A That was her chanrge in court, but she withdrew that and we had a compromise in court.
Q But as a matter of fact you never did half support her? A Yes, of course.
Q What reason did she have to leave you? A I could not understand unless she wanted to quit and marry another man.
Q What were you doing when you were living with her trying to support her? A I was working at a saw-mill trying to improve the place.
Q Did you go to her when she was in court and ask her to withdraw that charge and substitute another? A No sir.
Q Do you know that you went to other parties to get them to get your wife to withdraw the charge of want of suppost? A I don't remember; I might have done it
Q In any event that charge was withdrawn on your agreement with her? A They told me if I would grant her this divorce it could be done with a mutual agreement drawn in an instrument of writing, and it could be signed before witnesses, and we did that.
Q You did not have any place until you married her? A Only that place.
Q You did not have that until you married her? A No sir.
Q You occupied the place all the time since? A No sir, turned it right back to her and made me another place.

Applicant,s former wife on '80 roll, page 237, number 548.

Applicant, William P. Sager, presents marriage license and certificate duly certified to certifying that he married one Mary Ann Cheek, a citizen of the Cherokee Nation, on the 27th day of January 1882, according to the laws of the Cherokee Nation, he being a white man and his name appears upon the censu roll of '96, and the name of his wife, Mary Ann Cheek, appears upon the authenticated roll of '80, and is identified as a Cherokee citizen by blood. The testimony shows that the said applicant and his wife are not living together, having been separated; consequently the final judgment as to the enrollment of said William P. Sager

will be suspended and his name will be placed upon a doubtful card, and he will be notifed by mail of the decision of the Commission as to his enrollment.

The undersigned, being first duly sworn, states that as stenographer to the the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Brue Barnard

Subscribed and sworn to before me this 19th day of September, 1900.

C. W. Burke

Commissioner.

File with case of William F. Sager, -C.D.#580.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., Sept. 17, 1900.

In the matter of the application of Mary A. Camp for the enrollment of herself, husband and children as Cherokee citizens; being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? A Mary A. Camp.
Q How old are you? A Going on thirty-two.
Q What is your post-office address? A Vinita.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen? A Yes, sir.
Q By blood? A Yes, sir.
Q What degree of blood do you claim? A I declare I don't know, my father claimd half-breed.
Q What is your father's name? A Pleasant Cheek.
Q Is he living? A No, sir.
Q Was he an Indian by blood? A Yes, sir
Q What is your mother's name? A Sarah B. Cheek.
Q Is she living? A Yes, sir.
Q Is she a white woman? A Yes, sir.
Q Q Are you married? A Yes, sir.
Q What was your name before you were married? A Chekk.
Q Your husband living? A Yes, sir; I was married twice.
Q You want to enroll your present husband? A Why that's just with you.
Q When did you marry him? A I married him in 1886 I believe. December 22, 1886.
Q Have you a certificate of your marriage? A Yes, sir. (Produces papers /)
Q What is your husband's name? A George F.ranklin Camp.
Q How old is he? A He was born in 1839, May 11th. That's the way he give it to me this morning.
Q He aint sixty years old is he? A No, sir, I don't think he is it seems to me he was fifty-five this May.
Q Have you any children? A Yes, sir.
Q What are the names of your children? A I have two by my last husband and one by my first husband.
Q What is the name of your first child? A Henry Sager.
Q Is he living? A Yes, sir
Q How old is Henry? A He was born April 20, 1884.
Q What is the name of the next one? A Claud F. Camp.
Q How old is Claud? A He was born October 17th 1887.
Q What is the next one? A Jennie May, a girl.
Q How old is she? A She was born June 14, 1894.
Q Are these children all alive and living with you? A Yes, sir.
1880 roll page 237 #648 Mary Ann Cheek Delaware District;
1896 roll page 450 #609 Mary A. Camp Delaware Dist;
1896 roll page 531 #2811 Henry Sager, Delaware;
1896 roll for husband, page 567 #74 George F. Camp Delaware;
1896 roll page 450 #610 Claud F. Camp Delaware;
1896 roll page 450 #611 Jennie M. Camp Delaware.
Q Is your first husband dead? A No, sir, he is living.

Examined by Cherokee Attorney Hutchings:
Q What was the cause of the separation between yourself and your first husband? A Because he couldn't make a living for me.
Q Who did the leaving? A I did.
Q You left him because he couldn't make a living for you?
A He wouldn't do it.

Q Was he unkind to you? A Well I couldn't say he was unkind to me, only he wouldn't support me, though.
Q And you got a divorce from him? A Yes, sir, got a divorce in the Cherokee Court.

Com'r Needles: The name of Mary A. Camp appears upon the authenticated roll of 1880 as Mary ANN Cheek, her maiden name, and upon the census roll of 1896 as Mary A. Camp; the name of her present husband. She present certificate of marriage and license duly certified certifying that she was married to one G. F. Camp on the 21 day of December, 1886; she avers that she has three children, Henry Sager, Claud F. Camp and Jennie May Camp, whose names appear upon the census roll of 1896; the name of her husband, George F. Camp, also appears upon the census roll of 1896; having made satisfactory proof as to her residence, and being duly identified according to the page and number of the rolls as indicated in the testimony, said Mary A. Camp and her three children will be duly listed for enrollment by this Commission as Cherokee citizens by blood; and her husband, George F. Camp as a cherokee citizen by intermarriage.

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M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.
(Signed) M. D. Green.

Subscribed and sworn to before me this 18 day of September, 1900.
(Signed) C. R. Breckinridge,
Commissioner.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly copied the testimony in the matter of the enrollment as a citizen of the Cherokee Nation of Mary A. Camp and that the above and foregoing is a true and correct copy of the same.

J O Rosson

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

Supl.-C.D.#320.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee I. T., February 24, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of WILLIAM F. SAGER as a citizen of the Cherokee Nation, introduced on part of the Cherokee Nation:

Mr. W. W. Hastings, Cherokee Representative, present.

The applicant was notified by registered letter February 6, 1902, that his case would be taken up by the Commission for final consideration on the 24th day of February, 1902, and that he would on said day appear before the Commission either in person or by attorney and an opportunity would be given him to introduce any additional testimony affecting his case, and he was expecially requested to supply the Commission with a certified copy of decree of divorce which he has failed to do. He has been called three times and fails to respond.

J. C. STARR, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HASTINGS:

Q What is your name? A J. C. Starr.
Q What is your age? A 31 years.
Q Post office Vinita? A Yes, sir.
Q Are you the stenographer for the Cherokee representatives?
A Yes, sir.
Q Do you know William F. Sager? A Yes, sir.
Q Did you make any effort in behalf of the Cherokee Nation to get any serives upon ~~kt~~ William F. Sager, the applicant? A Yes, sir.
Q Now, tell what you did. A I went to Grove where the man used to live and I could not find him there and also sent registered letters and they were not returned; wrote a letter to the Post master of Grove and he advised me that this man was at Linslanding, Idaho.
Q He didn't state how long he had been out there? A Been out there since last May.

Commission: There is offered in evidence by the representatives of the Cherokee Nation a certified copy of the decree of divorce rendered in the case of Mellie Sager versus W. F. Sager on the 8th day of September, 1886, signed by T. J. McGhee, Clerk of Delaware District Cherokee Nation.

The representatives of the Cherokee Nation request that a copy of the testimony had in the matter of the applicant's former wife, now Mary A. Camp, Cherokee No. 2818, be filed with and made part of the record in this case

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

G. Bowen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this Sept. 26, 1906.

Commissioner.

Cher.
Supp'l to D 320

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 24, 1902.

In the matter of the application of WILLIAM F. SAGER, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

WILLIAM F. SAGER, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A William F. Sager.
Q How old are you ? A Fifty two now.
Q What is your post office address ? A Grove.
Q Are you a white man ? A Yes sir.
Q Are you claiming the right to be enrolled as a Cherokee citizen by intermarriage ? A Yes sir.
Q What is the name of your wife ? A Her name was Mary Ann Cheek.
Q Is she the wife through whom you are claiming your citizenship ?
A She was, yes.
Q Is she a Cherokee by blood ? A Yes sir.
Q When were you married to her ? A I think it must have been in 1880, about twenty years ago.
Q Were you married to her under a Cherokee marriage license ?
A Yes sir, the license is here.
Q Was that the first time you were ever married ?
A No sir, once before in the States.
Q To this woman ? A No sir.
Q What was her name ? A Sarah Ellis.
Q Was Sarah a white woman ? A Yes sir.
Q Was she dead when you married your second wife ?
A No sir, she was living.
Q Was she divorced ? A Yes sir.
Q Where ? A At Bentonville, Arkansas.
Q Did you sue for the divorce ? A No, she did.
Q What year was that ? A In seventy something, I don't remember now, its been so long ago.
Q Did you ever file a copy of that decree of divorce with this Commission ? A No I didn't. I spoke to the clerk, John Black was clerk then, and he said it wasn't necessary.
Q John Black was clerk of what ? A Of the court at Bentonville.

The Commission: You had better get a copy of that decree of divorce between yourself and your wife Sarah, and send it to this Commission at once.

Q So that Mary Ann Sager is your second wife ?
A She was, she is divorced now.
Q How long did you live with her ? A About three or four years.
Q Then you separated ? A She left me, yes sir.
Q What was the cause of your separation ?
A I suppose she wanted to live with another man.
Q You suppose ? A Yes sir, we never had any racket about it at all, she just wanted to go away.
Q Do you remember what year she left you ? A No, I do not.
Q You think it was about seventeen years ago ?
A It was later than that, because Henry, my boy, is sixteen years old now, and he was perhaps nearly two years old. He was just a crawling baby.

Q Did she take the boy with her ? A No sir, left it with its grandmother.
Q Who did ? A We did.
Q After she left ? A No sir at the time.
Q Did you sue her for divorce ? A No sir, she sued me, and then withdrew it and had a written instrument to agree to disagree.
Q Did you provide for her Mr. Sager? A Always I did.
Q Were you always kind and indulgent ? A Yes sir.
Q Did you ever give her any cause, that you knew of, to leave you ?
A If I did I didn't do it intentionally.
Q Did you give her any cause ? A Didn't know she was going to do this until I was subpoenaed.
Q You were subpoenaed in the Cherokee court ? A Yes sir.
Q And you didn't know she was going to leave you until you were subpoenaed ? A Yes sir, I was living at my cousins mill, and I wanted to live there a while longer and work to get some lumber, and I moved her back to her father's.
Q Was it while you were living there that she left you ?
A Yes sir.
Q How did she leave you, did she leave her father's house ?
A No sir, she just come over to the court house.
Q She sued you for divorce while you were living at her father's ?
A She and the baby was there.
Q Didn't you visit there ? A Yes sir.
Q How often ? A I had been away about two weeks when she sued me.
Q That was the first intimation you had that she was dissatisfied and wanted to leave you ? A Yes sir.
Q Never had any words ? A Never had any words about it at all.
Q What did she allege ? A Why she alleged that I didn't support her.
Q Did you support her ? A Yes sir.
Q She had plenty to eat ? A Yes sir.
Q Plenty to wear ? A Yes sir.
Q Did she get her divorce ? A Yes sir.
Q By agreement ? A By agreement.
Q You were quite willing to give her a divorce were you ?
A I wasn't willing, but that divorce made me do it. And they advised me to do it.
Q Who did ? A The community, everybody nearly.
Q So you took their advice did you ? A Yes sir.
Q Who was the man ? A Frank Kemp. They said we never could live together.
Q Was he a white man ? A Yes sir.
Q Is she married to him now ? A Yes sir.
Q How soon after the divorce did she marry him ?
A I don't remember; a month or two after the divorce; I don't remember whether it was July or September.
Q What court was it ? A In the Delaware District, Cherokee court.
Q Have you married since that time ? A No sir.
Q Have you been living in the Cherokee Nation ever since you were married to your Cherokee wife ? A Yes sir, all the time except this last year.
Q Where have you been this last year ? A I went on account of my health; I had to go,
Q How long were you gone ? A Ten or twelve months.
Q That's the only reason you went out ? A Yes sir, I got so I couldn't work.
Q Have you any farm in the Cherokee Nation ? A I had one and sold part of it.
Q Was it improved ? A Part of it was.

Q Have you got any now ? A That place was mine and hers.
Q You sold it ? A No sir, they kept it, I never got anything for my labor.
Q You don't own any farms in the Cherokee Nation now ?
A No sir, I have got a place bargained for.

Examined by J. C. Starr:

Q When did you say you went away Mr. Sager ?
A Last May a year ago, I believe I went away out west.
Q Where did you go to ? A Me?
Q Yes ? A To Idaho.
Q What town ? A Athol and Spokane, Washington.
Q What did you do ? A Harvesting business, and carpenters trade. I could hardly work when I first went there.
Q What was the trouble with you when you went away ?
A Why I couldn't do nothing hardly.
Q I mean when you left here ? A I was just worked down X I couldn't do anything.
Q Did you have the advice of doctors ? A No sir, I tried to take mdeicine and it didn't do any good.
Q Isn't it a fact that you went out there to work in the mines and not for your health ? A No sir, I prospected some.
Q Didn't you go out there to prospect instead of for your health.
A When I left here I didn't know if there was any mines there.
Q You say no doctor advised you to go there ?
A No, they didn't didn't advise me particular, I wasn't hardly able to do a day's work when I left here.
Q How long have you been back ? A Two or three weeks.
Q Where did you and your second wife live when you were married ?
A We lived right there close to Grove.
Q On a place of your own ? A Well, it was her's, she claimed, I had as much interest as she did I suppose, I made the improvements.
Q How long did you live on that place ? A All the time until I went down to the mill.
Q After you lived there about two years you went to a saw mill ?
A Yes sir, maybe it was the second year, Cale, I don't remember. I went down there to work and get lumber to make a place. August had a mill there on Honey Creek.
Q Where was your wife when this separation took place ?
A At her pa's, Mr. Cheek's. I was at the mill.
Q You went over to the mill and left her there ?
A Yes sir, she went with me at first, and we was to get a house, and move down there, and the summer was so near gone she said we had better not move there, and I said alright.
Q But you took her to Mrs. Cheek's then ? A Oh yes sir.
Q And left her there ? A Yes sir, she was perfectly willing to do it. We made arrangements that we didn't wish to move down there for that short a time.
Q Didn't you have some trouble before this ? A Yes sir, we had a little.
Q What was the trouble ? A Why she didn't want to go down to the creek. She was perfectly willing to go at first, and I went down and stayed a while, and she didn't want to go back down there; and I said alright.
Q And because she didn't want to go down there you left her at her mother's ? You didn't have any trouble or quarrel before that took place ? A Only she didn't want to go down there.
Q Was that the only trouble ? A That's all the trouble I know of.
Q Didn't you stay up there one night and whet up your razor and threaten to kill her ? A No sir.
Q You deny that ? A Why of course I do.

Q How long had you left her at her mother's before the case came up ? A. Two or three weeks. I could hear from there every day from people coming down to the mill after lumber, and they were alright.

N. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

N C Bagwell

Subscribed and sworn to before me this December 10, 1908.

B O Jones
Notary Public.

Char
Supp'l to D 320

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 31, 1902.

In the matter of the application of WILLIAM F. SAGER, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

The Commission: The Cherokee Nation files proof of service of notice upon applicant, that they would take testimony on this day tending to disprove his right to enrollment, and the same is filed herein.

GEORGE F. CAMP, called as a witness, being duly sworn by the Commission, and examined, testified as follows:

Examined by W. W. Hastings, Esq:

Q What is your name ? A George F. Camp.
Q What is your post office address ? A Vinita.
Q What is your age ? A Fifty three.
Q Do you know William F. Sager ? A Yes sir.
Q Do you know when he married Miss Cheek ?
A I don't know just the time he married.
Q Did you know his wife ? A Yes sir.
Q Was she a Cherokee by blood ? A Yes sir.
Q What was her name ? A Mary Ann Cheek.
Q When did you first know of them living together as man and wife ?
A About 1882, as well as I remember.
Q Did they separate ? A Yes sir.
Q What became of them ? A Why at the time of the separation Sager went to Spavinaw, at the mill.
Q Did he leave her ? A Yes sir, that's my understanding, that he left her.
Q Did he ever go back to her any more ?
A No, I don't think he ever did.
Q Do you know where Sager is now ? A Yes sir, he is near Vinita.
Q He has been out of the country hasn't he ? A Yes sir.
Q Did you talk to him about coming down here to-day ?
A Yes sir, I talked to him, and he said he wouldn't come; said he would never appear before the Commission any more.
Q Has he been out of the country ? A Yes sir, he has been west for about eighteen months, or maybe two years.
Q How long has he been back ? A About three weeks.
Q What sort of support did he give his wife when they were living together ? A Very poor.
Q Were they in needy circumstances when they were living together ?
A Yes sir.
Q Do you know the cause of the separation when he left her ?
A No sir.
Q Did he take her to her father's ? A That's what I understand.
Q Where did he go ? A Down to Washburn's mill.
Q And left her there ? A Yes sir.

By the Commission:

Q Did you know where they were living just before they separated ?
A I think they lived in what is known as Webber Hollow at Sager's saw mill.
Q They lived in the country ? A Yes sir.
Q They lived on a farm ? A No sir, at a saw mill.
Q Whose house did they live in ? A A. C. Sager's.

Q Is A. C. Sager any relation to William F ?
A I think they are cousins.
Q Was he working in the saw mill ? A Yes sir, he was logger, I think.
Q You weren't there when they separated ? A No sir.
Q How long had they been separated when you saw his wife ?
A I don't just exactly remember.
Q A short time or a good while ? A It hadn't been a great while.
Q Where was she when you first saw her after the separation ?
A At her father's, I think.
Q How long after the separation befpre you saw her ?
A Well, I don't just remember, probably four or five months.
Q Where was he when you saw him first after the separation ?
A I don't remember where I did see him.
Q How far did his wife's father live from the mill where they were living ? A About six miles.
Q Was he living at Washburn's mill when you saw him next ?
A No sir, I think I met him between the mill and home.
Q Did he tell you at that time where he was staying ? A No sir.
Q Did you hear of his being up there at Washburn's mill ?
A Yes sir.
Q How far is that from Sager's mill ?
A About eighteen or twenty miles.
Q How long did he stay up at Washburn's mill ? A I can't say.
Q Is his wife living yet ? A Yes sir.
Q Have they ever lived together since then as man and wife ?
A No sir, I guess not.

Examined by Mr. Hastings:

Q She sued him for divorce and got it afterwards ? A Yes sir.
Q Did he ever have any home for her or did he just take her from place to place, from saw mill to saw mill ? A Why he took her from saw mill to saw mill.
Q And finally took her to her father's place and left her ?
A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this December 11, 1902.

B. C. Jones
Notary Public.

Cherokee D 320.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., November 3, 1902.

In the matter of the application of William F. Sager for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

The Cherokee Nation makes proof of service of notice upon the applicant, William F. Sager, that testimony will be offered by the Cherokee Nation on November 3rd, tending to disprove his right to enrollment as an intermarried citizen of the Cherokee Nation. Said notice is filed herewith.

MOLLIE CAMP, being sworn, testified as follows:

By the Commission,

Q What is your name, please? A Mollie Camp.
Q How old are you, Mrs. Camp? A Thirty-five.
Q Thirty-five? A Yes, sir.
Q What is your postoffice address? A Vinita, I. T.

By Mr. Starr.

Q Are you acquainted with William F. Sager? A Yes, sir.
Q How long have you known him? A I have known him ever since 1882.
Q Were you his wife at one time? A Yes, sir.
Q When were you and he married? A November, 1882.
Q How long did you continue to live with him after you were married?
A I lived with him until '84.
Q Did you separate from him then? A Yes, sir.
Q What was the cause of the separation? A Because he did not make a living.
Q Where were you living at the time the first separation took place?
A Living down in the hollow south of Honey Creek.
Q Were you living at a saw mill? A No, there wasn't a saw mill there then, but they were expecting a saw mill to come in.
Q You were living at a camp where they were hauling logs for a saw mill? A Yes, sir.
Q How long had you been living there when your first separation took place? A About two or three weeks.
Q Where did you go when the separation took place? A Back to my father's.
Q How far was that place from your father's? A About four or five miles, I guess.
Q Did you commence living with him afterwards again? A Yes, I went back to him along in the winter.
Q How long did you live with him the last time you lived with him as his wife? A Till along in July.
Q From along in the winter until along in July? A Yes, sir.
Q Where were you living then? A About half a mile from where we lived first, at a saw mill.
Q In what part of the Cherokee Nation was the saw mill located?
A In Delaware District.
Q In the hills? A No, sir.
Q What was the cause of this separation? A Why, he went down into the hills to work, and along about the middle of August he come

back and called ma to the fence and wanted to see the baby and didn't ask anything about me, and along the last of August I sued for a divorce, I supposed he had quit.
Q How long did you wait for him? A I waited long enough to get a divorce in September.
Q You say he left you at your mother's? A Yes, sir.
Q Where did he go when he left you at your mother's the last time?
A Down to the Washam or Sager saw mill.
Q How far is that? A Down in Spavinaw.
Q Did you hear anything from him the last time when he was coming back? A No, he just come back to see the baby.

By the Commission,

Q When you and Mr. Sager separated the last time, you did not have any falling out, did you, Mrs. Sager? A No, only he took me back to my mother's.
Q What did you do with your household goods? A I taken them back to ma's and he took his with him.
Q He took what stuff you had to your mother's, and he went on to the saw mill? A Yes, sir.
Q At the time he took you to your mother's, did you understand then that he had left you? A No, sir.
Q You thought, and he led you to believe, that he had gone up there to go to work? A Yes, sir.
Q And there was no separation so far as you knew until he came back and asked to see the baby and did not ask to see you? A No, sir.
Q You didn't know or didn't think he had left you until after that, did you? A No, sir.
Q And he went away in July and came to see the baby sometime in the following August, the next month? A Yes, sir.
Q And then in the next month, September, you filed a suit for divorce, didn't you? A Yes, sir.
Q The fact is, Mrs. Camp/ you didn't know for certain at the time you filed your suit for divorce that he had left you for good.
Q I had believed he did from the way he acted.
Q You believed he did, but you had no falling out or he had never told you he was going to quit you or anything of that kind?
A But he did not support me.
Q He didn't send you anything to live on while he was away?
A No.
Q And is not that the principal reason why you sued for divorce, because he did not make any effort to provide for the child?
A No, sir.
Q You didn't sue him for divorce on the grounds that he had deserted you? A No, on the grounds that he did not support me.
Q Well, Mr. Sager had no property or very little when you and he were living together? A He didn't have anything.
Q He didn't have anything beofre you married him? A No, sir.
Q You knew that when you married him? A No, I didn't know it.
Q How long had you known him before your marriage? A About three or four months, I suppose.
Q Was he a stranger in that neighborhood? A He was a stranger to us, his cousin lived there.
Q So far as you knew when you and he married he didn't have anything any property or anything, did he? A No, sir.
Q You didn't marry him because you thought he had plenty of property? A No, sir.

Q Was he a pretty good worker? A He didn't work any to amount to anything.
Q What has he done since you and he separated? A Just like he did, when we were living together.
Q He has never fooled another woman, has he? A No, I don't think he has.
Q Perhaps he thought when he married you he would get property enough that he could live without working. A It might have been.
Q You didn't raise any objection while you and he were living together about him not working, did you? A Yes, sir.
Q How did you and he live, what did you live on when you and he were living together? A We got part of our living from my father. We drew money twice.
Q How much money did you draw the first payment? A Fifteen dollars, and the second, thirty.
Q Forty-five dollars? A Yes, sir.
Q And you lived with him a little over two years? A From '82 until along in '85 or '84.
Q How did you and he get along while you were living together, you were not fighting and quarreling all the time? A No, sir.
Q Just about as man and wife usually get along, a little spat occasionally? A I guess so.
Q And as a matter of fact when Mr. Sager left you he went off as he said up to the saw mill to work, you thought, and so far as you knew, he intended to come back and you didn't realize anything about his leaving you for good until afterward he come back there and saw the child? A Yes, sir.
Q And the very next month you filed a suit for divorce on the grounds of failure to support? A Yes, sir.

By Mr. Starr.

Q You had some proprty yourself when you married this man?
A Yes, sir.
Q Had a home of your own? A Yes, sir.
Q Had a farm? A Yes, sir.
Q Would he work that farm? A No, rented it out.
Q What did he do for a living when he worked around these saw mills?
A He worked.
Q What did you do? A I boarded the hands.
Q Where has he been for the last two years? A He has been in Idaho, I don't know where all he has been.
Q Been out of the Indian Territory? A Yes, sir.

By the Commission,

Q Have you kept track of him pretty well since you and he separated?
A No, the only way I kept track of him was through his boy.
Q That's his son and your son? A Yes, sir.
Q Who is the boy living with? A He's living with me.
Q Living with you? A Yes, sir.
Q And does he write to the boy occasionally? A Yes, sir.
Q How long since he left the Indian Territory this last time?
A It has been about two years, I think, just after the Dawes Commission at Vinita.
Q Two years ago this fall when the Dawes Commission was there?
A Yes, sir.
Q He appeared before the Dawes Commission for enrollment then, didn't he? A Yes, sir.

Q He didn't have you to testify for him up there, did he?
A No, sir.
Q But since then, since he applied to the Dawes Commission, he left the Territory? A Yes, sir.
Q Has he left the Territory for good? A No, he is back here now.
Q He is back here now? A Yes, sir.
Q How long has he been back this last time? A Two or three weeks, I suppose.

By Mr. Starr,

Q Did Mr. Sager ever contribute anything to the support of the child? A Not since I had him; my mother had him for a while, and he bought him about two dollars worth of clothes at one time.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 3rd day of November, 1902.

B O Jones
Notary Public.

ATTORNEYS
W. W. HASTINGS
J. L. BAUGH
J. C. STARR, SECRETARY

OFFICE OF

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE ENROLLMENT

Muskogee I.T. 2/6-1902

Mr William Ballard
Nashoba I.T.

Dear Sir:

Write me where Wm F. Sager now lives & oblige - I have heard that he has gone to Colorado -

Yours very truly -
W W Hastings
Atty for Cher Nation

That man is in
Yours very Tery

And if you want Mr Sag
I think I can find out
His P O address
Your Wm Ballard

Feb 12th 1902

Friend

in answer to your
letter This was his
post office when last
[illegible] from [illegible]
[illegible]
[illegible] ashington
[illegible]

[illegible]

[illegible]

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.

J. C. STARR, SEC.

OFFICE OF

ATTORNEYS FOR CHEROKEE NATION

BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number: F. D.....

Muskogee, I. T. Feb. 19, 1902.

Mr. B. W. Alberty,

Tahlequah,

I. T.

Dear Sir:-

Please examine the Circuit CourtRecord of Delawre District Cherokee Nation, and send us a certified copy of the decree of divorce granted in the case of Mary A. Sager vs Wm. T. Sager.

Yours very truly,

2818 Geo. F. Camp et al
Cherokee marriage License
dated Dec 21, 1886,
Mary ann Cheek + Geo F.
Camp —
Married Dec 22, 1886

Claud was born Oct 17, 1887

R. C. Slack
Muskogee, I. T.

Mr. Hawkins
Muskogee
I. T.

D 320

Registered Letter 1401 P. O. Muskogee, Ind. Ter.,

725

J. C. Slaton
Muskogee, I. T.

IN THE MATTER OF THE APPLICATION OF

William T. Sagar

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 17, 1900
B. Memo application " 17, 1900
C. Marriage License and certificate
D. Notice of final consideration
E. Certified copy of decree of divorce.

F. Supplemental testimony, Feb. 24, 1902 and case closed.
G. Testimony from Mary A. Camp case.

OCT 12 1907

Cher D 321

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., SEPTEMBER 17, 1900.

In the matter of the application of Clara May Gordan for the enrollment of herself and children as citizens of the Cherokee Nation; said Gordan being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your full name? A Clara May Gordan.
Q What is your age? A 20.
Q What is your post office? A White Oak Switch.
Q What is your district? A Cooweescoowee.
Q Who is it now you want to have put on the roll? A Myself and two children.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A Ever since I was about four years old. I have been eight months out.
Q Were you admitted by the Cherokee Commission or Council? A I have not got it; Papa has got it.
Q In what years were you admitted? A 1887, I believe.
Q What is the name of your father? A Andy Hampton.
Q Cherokee or white man? A Cherokee.
Q He is living you sy A Yes, sir.
Q Was he admitted the same time you were? A Yes sir.
Q And your mother's name? A Lillie Hampton.
Q Cherokee or white woman? A White woman.
Q Is she alive? A No, sir.
Q How long since she died? A Since I was about a year old.
Q Give me the names of your children please,? A George Lee Gordan
Q How old is that child? A Two years old.
Q The nest child? A John Andy.
Q How old is that child? A He is six months old.
Q What is the name of the father of these children? A Leonard N. Gordan.
Q White man or Cherokee? A Whit man.

Com'r Breckinridge:--The applicant presents a duly authenticated marriage license and certificate, showing her marriage in accordace with United States law, as stated by her, to have taken plase on December 11, 1896. The ceremony being performed by the Deputy Clerk of the United States Court, Northern District, Indian Territory. These papers are filed herewith.

Q Is your husband living at this time? A Yes, sir.
Q You do not apply for him because he married under United States law? A Yes, sir.
Q You and him have lived together eversince your marriage have you? A Yes, sir.
Q You have lived in the Cherokee Nation ever since you admission have you? A Yes, sir.

1896 enrollment; page 176, #2230, Clara M. Hampton, Cooweescoowee.

Com'r Breckinridge:--The applicant applies for the enrollment of herself and two children: She claims to have been admittes as a Cherokee by the Cherokee Authorities in 1887 or 1888. She is not able to produce a certificate of admission at this time. She is identified on the roll of 1896 as a Native Cherokee. The marriage license and certificate filed herewith establishes the change of name under which she appears at present. She has lived in the

Cherokee nation ever since her alleged admission, and she will be listed now for enrollment as a Cherokee by blood, upon a doubtful and to await the presentation of official evidence of her admission to citizenship as claimed by her. Her two Children, George L. and John A. Gordan, will be listed with ther mother for the same enrollment, and under the same conditions, when the Commission is presented with proper certificate of their birth.

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J.O.Rosson, being first duly sworn, states that as stenographer to the Commission to the Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J.O.Rosson

Subscribed and sworn to before me this 19th day of September, 1900

Commissioner.

D 321

SUPPLEMENTARY TESTIMONY.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 18th, 1900.

IN THE MATTER OF THE APPLICATION OF Clara May Gordon for enrollment as a citizen of the Cherokee Nation, and she being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Clara May Gordon.
Q For whose [illegible] enrollment do you make application?
A Myself and two children.
Q What is your age? A Twenty.
Q What is your Postoffice? A Whitebark.
Q What is the name of your husband? A Leonard B. Gordon.
Q Is he a white man? A Yes sir.
Q He married too late to be enrolled? A Yes sir.
Q What was your maiden name ? A Hampton.
Q Did you present a certificate of marriage yesterday? A Yes sir.

The applicant now presents a duly authenticated certificate of admission to Cherokee citizenship, showing that on the 30th of June, 1888, certain persons were admitted to citizenship by the Cherokee Council, and among them appears the name of Clara May Hampton.

Q That is your name, is it? A Yes sir.
Q You were nine years old then? A Yes sir.
Q Makes you about twenty or twenty one now? A Yes sir.

This is accepted as satisfactory evidence of the fact of admission, and completes the record in the manner desired, in the application of the applicant for the enrollment of herself and children. The document is returned to her.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Crawford

Subscribed and sworn to before me
this 18th day of September, 1900.

C R Breckinridge

COMMISSIONER.

Supl.-C.D.#321.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T/, February 24, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of CLARA M. GORDON, ET AL., as citizens of the Cherokee Nation.

Mr. W. W. Hastings, Cherokee Representative, present.

The applicant was notified by registered letter February 6, 1902, that her case would be taken up by the Commission for final consideration on the 24th day of February, 1902, and that she could on said date appear before the Commission either in person or by attorney and introduce any further testimony affecting her case. Receipt has been acknowledged of Commission's letter, and applicant has been called three times and fails to respond either in person or by attorney and the case is ordered closed and reported to the Commission for final decision based upon the evidence now on file.

Commissioner.

J.O.R.

Cherokee D 321

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES. H.A.L.

In the matter of the application of Clara M. Gordon for the enrollment of herself and two minor children, George L., and John A. Gordon as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 17, 1900, the applicant, Clara M. Gordon, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and two minor children, George L., and John A. Gordon, as citizens by blood of the Cherokee Nation. There after, on September 18, 1900, at Vinita, Indian Territory, further evidence in the matter of this application was heard, and on February 24, 1902, at Muskogee, Indian Territory, the case was ordered closed and reported to the Commission for final decision.

It appears from the evidence in this case that the applicant, Clara M. Gordon, was re-admitted under the name of "Clara May Hampton" to all the rights and privileges of Cherokee citizenship, on the 30th day of June 1888 by the Commission on Citizenship of the Cherokee Nation. On the 11th day of December 1896, the applicant was married to Lenard B. Gordon.

The applicant, Clara M. Gordon, is identified on the Cherokee Census Roll of 1896 as "Clara M. Hampton," her maiden name. The two children, George L., and John A. Gordon, born July 5, 1898 and February 25, 1900, respectively, are too young to be on any roll but proper proof of their birth has been furnished this Commission. Another child, a daughter, Amanda Gordon, was born October 5, 1901, subsequent to the date of this application and proper proof of her birth has been furnished this Commission. The applicant, Clara M.

Gordon, has lived in the Cherokee Nation ever since her admission.

The authority of the Commission herein is defined in Paragraph 1, of Sec. 21, of the Act of Congress, June 28, 1898 (30 Statu., 495.)

It is therefore the opinion of this Commission that Clara M. Gordon, George L. Gordon, John A. Gordon, and Amanda Gordon, are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,

this MAY 27 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

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

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes rendered May 27th, in the matter of the application of Clara M. Gordon for the enrollment of herself and children, George L. Gordon, John A. Gordon and Amanda Gordon, as citizensby blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of said persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. D-321.

Clara M

Transferred to Cherokee 1957.

Cher D 322

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 17, 1900.

In the matter of the application of Sarah E. Fincher for the enrollment of herself, her three children and brother as citizens of the Cherokee Nation; said Fincher being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your full name? A Sarah E. Fincher.
Q How old are you? A 25.
Q What is your post office? A Adair.
Q In what district do you live? A Coweescoowee.
Q Who is it you want to have put on the roll? A Myself, brother and three children.
Q How old is your brother? A 23. He is an invalid.
Q He is not of good mind? A No, sir, he has fits all the time.
Q Do you look after him all the time? A Yes, sir, I am his guardian.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q Of Course, your brother is a Cherokee by blood? A Yes, sir.
Q What was your name before it was Fincher? A Adair.
Q When were you married? A 1893 I believe.
Q How long have you lived in the Cherokee Nation? A All my life.
Q How were you enrolled in 1880, as an Adair? A Yes, sir.
Q What district were you from? A Flint.
Q In 1896 were you a Fincher? A Yes, sir.
Q And then from Coweescoowee? A Tahlequah.
Q What was your father's name? A James W. Adair.
Q Cherokee or white man? A Cherokee.
Q Dead or alive? A Dead.
Q How long since? A He died just before 1880.
Q Your mother's given name? A Mary.
Q Cerokee or white woman? A White woman.
Q Dead or alive? A Alive.
Q Give me the names of your children please? A James V. Fincher.
Q How old is that child? A Five.
Q The next child, please? A John E.
Q How old is that child? A Four.
Q Is he on the roll of 1896? A Yes, sir.
Q The next child? A One year old.
Q What is its name? A Alvin R.
Q What is the name of the father of these children? A Thomas J.
Q Cherokee or white man? A White man.
Q Dead or alive? A Alive.
Q Was he ever married to you in accordance with Cherokee law?
A No, sir.
Q You make no application for him? A No, sir.
Q These children are all living now are they? A Yes, sir.
Q Give me the name of your imbecile brother? A George W. Adair.

Q How old is he? A 23.
Q He is on the roll of 1880 is he? A He was re-admitted since then.

Com'r Breckinridge:--The applicant presents an official copy of an act of the Cherokee National Council, re-admitting certain persons to citizenship. Said act being approved by the Chief of the Nation on January 2, 1891, and among them appears the name of Emily Adair.

Q That is your name is it? A Yes, sir.
Q The E in your name is for Emily? A Yes, sir.

Sarah E. Fincher--E.

Q. Have you lived in the Cherokee Nation ever since you were admitted? A. Yes, sir.
Q. I see also upon this certificate the name of George Adair is that the name of this imbecile brother? A. Yes, sir.
Q. Your brother has lived in the Cherokee Nation ever since he was admitted in 1891? A. No, sir, he has lied with mother.
Q. Does she not live in the Cherokee Nation? A. No, sir.
Q. Where is your brother at this time? A. He is at Fayettville, Arkansas.
Q. Has he ever lived in the Cherokee Nation? A. Yes, sir.
Q. He came here after his admission in 1891? A. Yes, sir. He came in 1891, but he did not stay.
Q. Then your brother has never permanently located in the Cherokee Nation? A. No, sir.

This act of admission states: "That the rights granted shall not accrue to any parties herein named, until they become residents of the Cherokee Nation."

Q. Have you a certificate of your marriage? A. Yes, sir, I had it, but I left it down at the camp.
Q. Have you somebody here who knows that you and your husband lived together as husband and wife? A. I do not believe I was anyone that I know.

Com'r Breckinridge:--The applicant presents duly authenticated letters of guardianship of her brother, George W. Adair. This is returned to her.

1896 enrollment; page 1168, #1023, Sarah E. Fincher, Tahlequah.
1896 enrollment; page 1168, #1024, Virgil Fancher, Tahlequah.
1896 enrollment; page 1168, #1026, Elmer Fin[illegible] Tahlequah.
1896 enrollment; page 1131, #27, Georgge W. Addir, Tahlequah.

Com'r Breckinridge:--The applicant applies for the enrollment of herself, her imbecile brother, for whom she is guardian, and for three children of her own. She was married to her husband, she states, under United States law and no application of made for him. She is identified on the roll of 1896 under her married name. She is shown by the official copy of the act of the National Council of the Cherokee Nation, to have been admitted to citizenship January 2, 1891. This act is cited inthe testimony. She has lived in the Cherokee Nation ever since the pass age of that act. She is not able to establish her change of name from the act of the Council to her enrollment under her married name, and therefore until she produces a certificate of her marriate, or satisfactory personal evidence, she will be placed upon a doubtful card. Her two children, James W. and John E., are identified with her on the roll of 1896. They will be placed with their mother upon a doubtful card until her marriate is further established. When she produces satisfactory certificate of the birth of child, Alvin R., this child will likewise be listed with its mother upon a doubtful card, subject to the same conditions as have been named for its mother.

Now as regards the application for the enrollment of her brother George W. Adair: He is identified on the roll of 1896, and is identified also in the act of admission submitted by the applicant. A requirement in that act is that the rights shall not accrue to any of the parties named, until they permanently locate in the Cherokee Nation. This man has not located in the Cherokee Nation, not has he ever permanently located in the Cherokee Nation. Owing to his demented condition and dependence upon his mother who lives in Arkansas, he will, for further consideration of this case, be placed upon a doubtful card; it being stated that he did come to the Cherokee Nation for a while.

Sarah E. Fincher---3.

Since the above decision the applicant has presented a duly authenticated marriage license and certificate filed herewith, and she and her children will now be listed for enrollment as Cherokees by blood, upon straight card.

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J.O.Rennen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rennen

Subscribed and sworn to before me this 18th day of September, 1909.

Commissioner.

Supl.-C.D.#322.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of GEORGE W. ADAIR as a citizen of the Cherokee Nation;

Mr. W. W. Hastings, Cherokee Representative, present.

The applicant was notified by registered letter February 6, 1902, that his case would be taken up for final consideration by the Commission on the 24th day of February, 1902, and that he would on said date be given an opportunity to appear before the Commission either in person or by attorney and introduce any further testimony affecting his application. He has been called three times and fails to respond either in person or by attorney and the case is ordered closed and reported to the Commission for final decision based upon the evidence now on file.

Commissioner.

J.O.H.

D-1183.

Department of the Interior,
Commission to the Five Civilized Tribes,
Stilwell, I. T., May 9, 1902.

In the matter of the application of Louvenia Latty for the enrollment of herself and children as citizens of the Cherokee Nation.

Applicant present in person; Cherokee Nation by W. W. Hastings.

Applicant in this case was notified by registered letter May 1, 1902, that she would at any time prior to the 20th day of May, 1902, be permitted to introduce further testimony as regards her right to be enrolled as a citizen of thethe Cherokee Nation.

D. H. Burke, being sworn and examined as a witness in this case, on behalf of the applicant, testified as follows:
Q What is your name? A D. H. Burke.
Q. How old are you? A I will be 52 next September.
Q What is your postoffice address? A McLain now.
Q Are you acquainted with the applicant here, Louvenia Latty? A I am.
Q How long have you known her? A Ever since the summer of 1878.
Q Where was she living when you first became acquainted with her? A She was then living in Sequoyah District near Sallisaw, it was Sweet Town when I first got acquainted with her.
Q What is the name of her father? A I don't know, she was in the family of her mother. Aaron Burr I knew, Lou Burr, She was then about eight or nine or ten years old.
Q Did you know any of her brothers or sisters? A I knew them all. She had no sisters, I knew her brother Aaron Burr who was younger than she and Andy Burr.
Q Did they have the same father and mother? A I didn't know then, I have been told since that her name was Sally Johnson; at that time I didn't know the difference.
Q Did Aaron Burr and the applicant have the same mother? A That is my understanding, she recognized the one we now know as Louvenia Latty as her child, then about eight or nine or ten years old and Aaron Burr was at that time three or four years old.
Q Did you know the applicant's husband? A Yes sir, Joe Latty, he is dead.
Q When did she marry him? A I couldn't say positively; I was living in the country at Webbers Falls and it has been something like 12 or 14 years ago or 15 years I ago; I couldn't tell exactly the date not knowing about it at the time. I know of her having lived there as man and wife with him and had children during his life time.
Q Where has the applicant been living ever since you have known her? A She was living in Sequoyah when I first knew her.
Q How old was she? A Between eight and ten years of age.
Q Have you known her continuously since that time? A I have known her and known of her. I moved to Canadian District after that and her stepfather moved from Sequoyah to Illinois District near what is known as Vian, that was in Canadian District; I knew of the family being there all the time. She and her mother, after Burr abandoned the family, came to the Webbers Falls bottom.
Q About when? A That was about '88. It might have been '87 or '88 when they came there. I couldn't say positively as to the year; I think it was about that, she was about grown.
Q About when was she married to Joe Latty? A About the second year after coming to Webbers Falls bottom. The first or second year, it might have been the first year afterwards.
Q Have you always known her by the name of Lou Burr or Sisa Burr? A I never knew her until since she was placed on the doubtful roll at Fort Gibson. I never knew her by any other name until she married Latty. I never knew her name to be Johnson only since that time.
Q How old is Aaron Burr her brother? A He is about, I think three or four years younger than she is. The difference in the size of the two children when this Andy Burr was an infant two years or less of age, Aaron was something like two years old.

The 1880 authenticated roll of the Cherokee Nation examined and the name of Mary Burr is found in Illinois District on page 309, No. 251.
Q Has this woman always lived in the Cherokee Nation since you have known her? A Yes sir, she has never been out that I know of.
Q Do you know whether or not her mother was Mary Burr? A That was my understanding; her mother recognized her as her daughter, called her daughter and she raised her from the time I knew her at eight or ten years of age on. I treated this woman to a spell of sickness when she and Joe Latty were first married and the mother was there as her mother and she was always called her mother and accepted her as her daughter.
Q Did you ever hear the applicant called Johnson? A Never until the enrollment at Fort Gibson; she herself told me that her father's name was Johnson and she should be enrolled as Louvenia Johnson so she told me.

John Coleman, being sworn and examined as a witness in this case, testified as follows:
Q What is your name? A John Coleman.
Q How old are you? A About 73.
Q Are you acquainted with the applicant in this case, Louvenia Latty? A Yes sir.
Q Have you known her ever since she was a child? A Yes sir.
Q Where was she living when you first learned to know her? A I expect she must have been ten or twelve years old; she was over here; I knowed her mother too.
Q Where was the applicant living when you learned to know her, what part of the Cherokee Nation was she living when you first met her? A In Canadian.
Q Did she continue to reside there up until the present time, have you known her ever since then? A Yes sir.
Q Has she ever been outside of the nation since that time? A No sir.
Q Did you know her father? A No sir.
Q Did you know her mother? A Yes sir, I knowed her ever since she was about 12 or 13 years old.
Q What was her mother's name? A Mary.
Q What was her father's name? A They called him John Winters, Mary's father.
Q Was Mary a Cherokee? A Yes sir.
Q You don't know who the father of the applicant is do you? A No sir.
Q Have you ever heard this applicant's right to enrollment disputed prior to this time?m A No sir.
Q Was her mother a recognized citizen? A Yes sir.
Q Has she always lived in the Cherokee Nation? A I knowed Mary's mother too.
Q Was Mary's mother a Cherokee? A Yes sir, her name was Jennie Sanders.

Sallie Muskrat, being sworn and examined as a witness in this case, testified as follows through duly sworn interpreter John Coleman:
Q What is your name? A Sallie Muskrat.
Q About how old are you? A I don't know, I expect I am about fifty or over.
Q Do you know Louvenia Latty? A Yes sir.
Q How long have you known her? A I couldn't tell how many years back. I wasabout that high (indicating) when they lived close by.
Q Did you know Loubenia Latty's mother? A Yes sir, knowed her.
Q What was her name, was she ever known as Mary? A Yes sir.
Q Did you know her as Mary Winters? A I knowed her, we growed up together all the time.
Q Was her mother a Cherokee? A Yes sir, she was a Cherokee.
Q The applicant has been living here in the Cherokee Nation ever

Z- Louvenia Latty et al.

since you first learned to know her has she? A Yes, she has been here.
By W. W. Hastings: Did her mother afterwards marry Aaron Burr? A Yes.
Q You know yourself that was her mother? A Yes.

Franklin Burr, being sworn, and examined as a witness in this case, testified as follows:
By W. W. Hastings: What is your name? A Franklin Burr.
Q Your age? A 48.
Q What is your postoffice? A Britts.
Q You testified in this case before? A Yes sir.
Q You know this applicant Louvenia Latty? A Yes sir.
Q Is she older than you? A No sir, she is not older than I am.
Q She is not your half sister then? A No sir.
Q Your father was married before he married her mother? A Yes sir.
Q How much older are you than she? A I expect about eight years older than she is.
Q Do you know that your father's second wife Mary, was her mother?
A No sir, I don't know only what she says. She nursed the child at her breast.
Q Have you any reason to doubt it, you hesitated some before, have you any reason to doubt that? A No sir.
Q Did you ever hear it disputed? A No sir, the reason why I hesitated you told me to swear the truth and nothing but the truth but I was telling it to the best of my knowledge. I don't know this thing.
Q You are eight years older than this woman? A About that much older.
Q She is your step-sister? A She was recognized as my step-sister. My father and her mother never were married; they just lived together as man and wife.
Q This Mary Burr, who lived with your father and recognized as your father's second wife, is her mother so far as you know? A Yes sir.
Q You never heard it disputed? A No sir.
Q Always recognized as her mother? A Yes sir.
Q According to your statement you were seven or eight years old when this child was born? A Something like that, seven or eight years old when she was born, I reckon; she was a child at the breast when I first knew her when my father and her mother went together. She was born before she came to my father's. She was born when they come together.
Q About what age was the applicant when your father and her mother began living together and when you first knew her? A Three or four months old I reckon, nursing at her mother's breast, Mary.
Q You have no reason in the world to doubt that this applicant is the child of Mary Burr? A No sir, no reason to doubt it at all.
Q Where was this applicant in 1880? A She was in Illinois District, I suppose. Her folks lived there and I wasn't at the house myself. I was either out some where tending to stock or something. I don't know why she aint on the '80 roll.
Q Has she ever been out of the Cherokee Nation since that time? A No sir.
Q Have you known her continuously from that time up to the present?
A Know of her, she has been in this country all the time.
Q You have known of her? A Yes sir, continuously ever since.

Lucrecia Batty et al.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. L. Rothenberger

Subscribed and sworn to before me this 22nd day of May, 1902.

[illegible]

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 4 1902

Acting Secretary.

F. D-356.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 9, 1902.

Supplemental testimony in the matter of the application of Walker Johnson for enrollment as a Cherokee freedman.

Applicant represented by I. P. Bladsoe; Cherokee Nation by W. W. Hastings.

Nelson Lowry, being sworn and examined, testified as follows:

By W. W. Hastings: What is your name? A Nelson Lowry.
Q What is your age? A Forty-one.
Q What is your postoffice? A Tahlequah.
Q Do you know the applicant, Walker Johnson? A Yes sir, I have seen him several times.
Q Are you a freedman living in Saline District? A Yes sir.
Q Do you know whether he ever had Murrel Johnson's sister, Mandy?
A Yes sir, he has a child by her, Alice Johnson.
Q This is the same Johnson? A Yes sir.
Q Where does he live? A Tahlequah.
Q Did he testify in this case? A Yes sir.
Q It was his sister that he had the child by? A Yes sir.

—o—

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

R. T. Rothenburger

Subscribed and sworn to before me this 23rd day of May, 1902.

T. T. Dexter
Notary Public

D. 322

Chero. D-522.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 10, 1902.

In the matter of the application of George W. Adair for enrollment as a citizen of the Cherokee Nation.

Supplemental.

The applicant's sister in this case was notified by registered letter May 1, 1902, that further evidence as to the residence of her brother, George W. Adair, the applicant, for whom she applied at Vinita, Indian Territory, September 17, 1900, was required in the consideration of his case. She this day, to-wit: the 10th day of May appears, and the following proceedings are had:

Sarah E. Fincher, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Sarah E. Fincher.
Q How old are you? A Twenty-seven.
Q What is your postoffice address? A Adair.
Q You appeared before the Commission and applied for the enrollment of your brother, George W. Adair, as a citizen of the Cherokee Nation? A Yes sir.
Q Where was your brother residing at that time? A In Washington County, Arkansas.
Q How long had he been there? A Most of his life.
Q Was he admitted to citizenship when you were? A Yes sir.
Q Where was he living at the time he was admitted? A He come into the nation and stayed a while.
Q How long did he stay? A Just a short time.
Q About how long? A About two months.
Q Was it as much as two months? A I don't remember, I was young myself.
Q Don't you remember how long he stayed? A No sir.
Q After he went away where did he go? A To Arkansas, to his mother.
Q Did he come back after that? A Yes sir.
Q When was that? A I don't know.
Q What year was it? A I don't know.
Q Haven't you any idea? A He didn't stay long; I haven't no idea. He was back, but I don't know how long nor what year.
Q How long did he remain here when he came back that time? A About one week.
Q Did he go back to Arkansas? A Yes sir.
Q Did he ever come back afterthat? A No sir.
Q He has lived there continuously since that time? A Yes sir.
Q You haven't no idea when he come back the second time? A No sir.
Q How do you know he came back? A I came back with him .
Q What year was it? A I haven't any idea.
Q Where were you living when you were admitted to citizenship? A I was then living in Arkansas and came to the nation and have been here ever since.
Q How long after your admission when you came in? A I came right straight.
Q Did your brother come with you? A No sir.
Q How long after you came before he came to the nation? A I don't remember how long.
Q Was it as much as a year? A I don't remember, I never paid any attention.
W. W. Hastings: Is his mother alive now? A Yes sir.
Q Is she alive in Arkansas? A Yes sir.
Q He is living with her? A Yes sir.
Q And he has been living with her allhis life? A Yes sir.
Q He has made that his home all his life? A Yes sir.
Q When he come here he just come on a visit? A Yes sir.
Q The first time he came for a very short time, you don't know how long? A No sir.

2- George W. Adair-

Q That was about the strip payment? A Before that.
Q He hasn't been here since the strip payment? A No sir.

Thomas Fincher, being sworn and examined, testified as follows:
Q What is your name? A Thomas Fincher.
Q How old are you? A Thirty-one.
Q What is your postoffice address? A Adair.
Q Are you the husband of the witness here who just testified in this case? A Yes sir.
Q You are a brother-in-law to George W. Adair, the applicant? A Yes sir.
Q How long have you known him? A About twelve years.
Q Where was he living when youfirst knew him? A He was living with his mother when I first knew him.
Q Where was that? A Over in Arkansas most of the time.
Q Have you been intimately acquainted with him for about twelve years past? A Yes sir, I have known him that long.
Q Where has he made his home all that time ? A Principally in Arkansas.
Q He never has acquired a residence in the territory? A No sir, my wife has an allotment, a place for him.
Q Does he claim any property here? A Nothing except his allotment.
Q Just his right to share in the final distributions? A Yes sir.
Q How long have you and your wife been married? A Nine years now, eight years.
Q Has her brother ever made his home with you during that time? A No sir, He has never lived there; we tried to get him to come there.
Q He isn't able to take care of himself? A No sir, he is an invalid.
Q Where was he living about four years ago? A In Washington County.
Q Has he ever been in the territory since that time? A No sir.

There is offered in evidence a certified copy of an act to readmit certain persons to citizenship in the Cherokee Nation among whom appears the name of George W. Adair, the applicant in this case; said act was passed by the Senate Jany 1, 1891, concurred in by the Council Jan. 1, 1891, and approved by J. B. Mayes, Principal Chief Cherokee Nation, January 2, 1891. This document will be filed.

There is also offered in evidence a letter showing that Sarah E. Adair was duly appointed guardian of George W. Adair, the applicant in this case. This document will also be filed.

W. W. Hastings:

Sarah E. Fincher recalled:

Q You had to get this letter of guardianship in order to draw his strip money, that was necessary? A Yes sir.
Q They would not let you draw strip money until you got out these letters? A Yes sir, they would not.
Q You got those letters for the purpose of drawing that strip money? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. L. Rothenberger

Subscribed and sworn to before me this 23rd day of May, 1908.

Notary Public.

Cherokee D 322

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES. T.H.L.

In the matter of the application for the enrollment of George W. Adair as a citizen by blood of the Cherokee Nation.

DECISION.

---oOo---

The record in this case shows that on September 17, 1900, Sarah E. Fincher appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of her brother and ward, George W. Adair, as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on May 10, 1902. The other parties to the application are differently classified and are not embraced in this decision.

The evidence in this case shows that George W. Adair, twenty-three years of age at the time of this application, an imbecil in body and mind, was named, with others, in an Act of the National Council of the Cherokee Nation, approved January 2, 1891, re-admitting him to Cherokee citizenship by virtue of his Cherokee blood, but the rights attending re-admission to citizenship were not to accrue to him until he permanently located in the Cherokee Nation. The said George W. Adair has lived almost all of his life with his mother in Arkansas, but in 1891 he was in the Cherokee Nation for a short time, indefinitely stated as about two months. Since that year the said George W. Adair was in the Cherokee Nation for about one week but he has never permanently located there.

The said George W. Adair is identified on the Cherokee census roll of 1896.

Paragraph 7 of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495) provides:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship;"

It is, therefore, the opinion of this Commission that the application for the enrollment of George W. Adair as a citizen by blood of the Cherokee Nation should be denied, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

T. B. Buckingham
Commissioner.

Dated at Muskogee, Indian Territory,

this JUL 16 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D-322.

Muskogee, Indian Territory, July 16, 1902.

W. W. Hastings, Esq.,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith inclosed the decision of the Commission to the Five Civilized Tribes, rejecting the application of Sarah E. Fincher for the enrollment of her brother, George W. Adair, as a citizen by blood of the Cherokee Nation.

The decision, with a copy of the proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Inc. H-45.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 322.

Muskogee, Indian Territory, August 12, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are hereby advised that the Commission's decision of July 16, 1902, rejecting the application for the enrollment of George W. Adair, Cherokee D 322, as a citizen of the Cherokee Nation, was affirmed by the Secretary of the Interior on July 29, 1902.

Very respectfully,

Tams Bixby

Acting Chairman.

IN THE MATTER OF THE APPLICATION OF

George W. Adair

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

Cher D 323

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPT. 17, 1900.

In the matter of the application of George W. Johnson for enrollment of himself, wife and children as citizens of the Cherokee Nation, said Johnson being sworn by Commissioner Kendrick, testified as follows:

Q What is your name? A George W. Johnson.
Q Your age? A 40.
Q Your postoffice? A Afton.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee nation? A Yes.
Q By blood or intermarriage? A By adoption.
Q What do you mean when you say by adoption? A Adopted into the Shawnee tribe before the treaty was made between the Cherokees and Shawnees.
Q Are you a white man? A Yes.
Q In what year were you adopted in to the Shawnees? A I don't recollect— about 30 years.
Q Have you any certificate of adoption? A I did have, but left it with a brother of mine to take care of and it got misplaced.
Q What is the name of your wife? A Angeline Whiteday.
Q Is she living? A Yes sir.
Q Who do you apply for for enrollment? A My wife, three children and myself.
Q Your present wife? A Yes.
Q What is your wife's name? A Ann.
Q Is she a white person? A Yes.
Q When did you marry her? A I have the certificate here.
Q This certificate certifies that you married one Mrs. Ann Richardson on the 4th day of February, 1894. Is your wife living? A Yes.
Q She is a white woman? A Yes.
Q What are the names of your children? A I have a little boy— a Cherokee child— I have been married three times.
Q Have only one wife living? A That's all.
Q What is the name of this child? A Tom Johnson, 8 years old.
On '90 roll, page 488, number 1576.
Q Who was his mother? A Liza Woodyard.
Q Was she a Cherokee by blood? A Yes.
Q Was Woodyard her name in '90? A Yes.
Q What is your next child? A George T., 5 years old.
Q Who is his mother? A My present wife.
Q What is the name of the next child? A Joe H., 2 years old.
Q Are these three children all alive and living with you? A Yes.
Q Have you any proof of birth of these two younger children? A Yes.
Q Is your name upon the '90 roll? A Yes, I think so.
Applicant on '80 roll, page 271, number 1362;
on 896 roll, page 578, number 883;
Applicant's wife, Ann, on '96 roll, page 578, number 884.
Eliza Johnson on '80 roll, page 271, number 1363.
Q Is she a Cherokee by blood? A Yes.

By W. T. Hutchins, Cherokee Attorney.
Q How many living husband has your last wife, Ann got? A None.
Q Was she ever married to a man named Flute? A No sir, that was Eliza.
Q Was she ever divorced from him when she married you? A I can't tell you.
Q You present wife was not married to any other man but you? A Yes, she married a man named Richardson, but he was dead when I married her.
Q Is she a white woman? A Yes.

The name of George N. Johnson appears upon the authenticated roll of '80 as well as the census roll of '96. His name also appears upon the rolls now in possession of the representatives of the Cherokee nation of Shawnees that were admitted in accordance with the 15th article of the treaty with the United States upon the 11th day of August, 1866. He avers that he was married to his wife, Ann Richardson, a white woman in the year '94, and her name appears upon the census roll of '96. He avers that he has a child named Thomas Johnson by his second wife, Eliza Woodward, whose name appears upon the roll of '80 as Lisa Johnson, his wife, said Lisa Johnson now being deceased. He avers that he has now two children, George T. and Joe N., by his last wife, Ann Richardson, he having presented satisfactory certificate and proof of marriage to said Ann, and files proof as to the birth of his younger child, Jo N., whose name does not appear upon the census roll of '96. His son, George T's., name does not appear upon the rolls of '96, and no proof of birth is filed as to said child. The name of Thomas Johnson, his mother being Eliza Johnson, a Cherokee woman by blood, will be duly listed for enrollment as a Cherokee citizen by blood. Because of the marriage of said applicant to Ann Richardson, a white woman, his name, and that of his wife, Ann, and of his two children, George T., and Jo N. will be placed upon a doubtful card, and final judgment as to their enrollment will be suspended. It will be necessary for him also in order to perfect the enrollment of his child, George T., to file satisfactory proof as to his birth. The applicant will be allowed to file any records, certified copies of the same, or testimony in regard to his enrollment and that of his children, at any time before the Commission makes final judgment as to his case, and he will be notified of the decision of the Commission by mail when arrived at.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 19th day of September, 1900.

Commissioner.

Supl.-C.D.#323.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of GEORGE W. JOHNSON, ET AL., as citizens of the Cherokee Nation:

Appearances:
N.A.Gibson, Muskogee,I.T., Attorney for applicants;
W.W.Hastings, Cherokee representative.

The 1880 authenticated roll of citizens of the Cherokee Nation examined and the name of applicant found thereon, page 271, #1362, George W. Johnson, Delaware District, adopted white 28 years of age.

The applicant was notified by registered letter February 6, 1902, that his case would be taken up for final consideration on the 24th day of February, 1902, and that he could on said date appear before the Commission either in person or by an attorney and an opportunity would be given him to introduce any additional testimony in his case. He this day appears by his attorney, N. A. Gibson, Muskogee, Indian Territory, and submits the case to the Commission for final consideration. The case is ordered closed and submitted to the commission for final decision based upon the evidence now on file.

Commissioner.

J.O.R.

Cherokee D-523.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 7, 1902.

In the matter of the application of George W. Johnson for the enrollment of himself and children, George T., Joseph H. and Lesley T. Johnson, as citizens by adoption, and for the enrollment of his wife, Ann Johnson, as a citizen by intermarriage of the Cherokee Nation.

James L. Cunningham, being sworn and examined by the Commission, testified as follows:

Q What is your name? A James L. Cunningham.
Q What is your age? A Thirty-four.
Q What is your postoffice? A Afton.
Q Are you acquainted with Ann Johnson who is an applicant before this Commission for enrollment as an intermarried citizen? A Yes sir.
Q What is her husband's name? A George Johnson.
Q How long have you known Ann Johnson and her husband, George Johnson? A I have known George for about fourteen years.
Q For the last fourteen years? A Yes sir.
Q Is he a citizen by blood of the Cherokee Nation? A He is an adopted Shawnee.
Q He is a Shawnee by blood? A He is considered that, but I believe he is on the doubtful list I believe.
Q Did you know George Johnson before he was married to his wife, Ann? A Yes sir.
Q Do you know about when he and Ann were married, how long ago? A Well sir, they lived neighbors to us, and I have the dates here. They were married on February 25, 1894.
Q Were you present at their marriage? A No sir, I wasn't.
Q Do you know whether George Johnson had ever been married before he married this woman? A Yes sir.
Q How many times? A He says he has been married twice; I know of his being married once before.
Q Were these wives living when he married this wife? A I know of Eliza Woodard, the wife he lived with before this woman, she is dead; I was at her burial.
Q And the other one was reputed to be dead? A Yes sir. She is buried at the same cemetery.
Q Had Ann Johnson ever be n married before she married, George? A One time that I know of.
Q Was her first husband living or dead? A His name was Lewis Richardson and he was dead when she married her present husband.
Q Now she is George's third wife? A Yes sir.
Q And he is her second husband? A Yes sir, that is what they say, I don't know it to be a fact. I know of her being his second wife.
Q Well now, since Ann Johnson and her husband George were married in 1894, have they lived together to your knowledge all the time since then up until the present time as husband and wife? A Yes sir, all the time.
Q They never have been separated during that time? A No sir, I know that.
Q And she has never been married to any other man since she married George Johnson? A No sir.
Q Were they living together as husband and wife on the first day of September, 1902? A Yes sir.
Q Has Ann Johnson lived in the Cherokee Nation ever since her marriage in '94 to George Johnson? A Yes sir.
Q All the time? A Yes sir.
Q How long has George Johnson lived in the Cherokee Nation to your knowledge? A To my knowledge ever since I was acquainted with him.
Q For the last fourteen years? A Yes sir, and longer.
Q Have they any children? A By his ~~wife~~ last wife, and her two living children, and one by Eliza Woodard, his second wife.
Q Are all three of these children living at this time? A Yes sir,

B- George W. Johnson-

these three are living. He has one dead.
Q You say he has one dead? A Yes sir.
Q When did it die? A It died on or about May 4, 1902; I was at its burial.
Q What was this child's name that died? A Lesley Taylor Johnson.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

B. G. Rothenberger

Subscribed and sworn to before me this 29th day of October, 1902.

B E Jones

Notary Public.

Cherokee D 323.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 16, 1902.

In the matter of the application of George W. Johnson for the enrollment of himself and his three minor children, George T., Joseph H. and Lesley T. Johnson, as citizens by adoption, and for the enrollment of his wife, Ann Johnson, as a citizen by intermarriage of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

GEORGE W. JOHNSON, being sworn, testified as follows:

By the Commission,

Q What is your name? A George W. Johnson.
Q How old are you? A Fifty-one, going on fifty-two.
Q What is your postoffice? A Afton.
Q Are you a white man? A Yes, sir, adopted Shawnee.
Q You are an adopted Shawnee, are you? A I lived back in Kansas; came here with the treaty.
Q Came here with the Shawnees? A Yes, sir.
Q You are on the Shawnee register, are you? A Yes, sir.
Q And on the roll of 1880? A Yes, sir.
Q Have you been living in the Cherokee Nation ever since that time? A Yes, sir.
Q Have you got a wife? A Yes, sir.
Q What's her name? A Ann.
Q How old is she? A To the best of my recollection she is about forty-five, somewhere along there.
Q Now, she's a white woman? A Yes, sir.
Q When did you marry her? A My recollection is kind o' badand I got it down here.
Q Were you married to your wife, Ann, on February 25, 1894? A Yes, sir. I think that's what's on my marriage certificate, they have it here.
Q Is Ann your first wife? A No, sir, she's my third wife.
Q Third wife? A Yes, sir.
Q Were your two former wives dead when you married Ann? A Yes, sir.
Q Both dead? A Yes, sir.
Q Had Ann ever been married before she married you? A Yes, sir.
Q How many times? A Once. Her husband was dead when me and her married.
Q Was her first husband a white man? A Yes, sir.
Q You say he was dead when she married you? A Yes, sir.
Q How many children have you? A I have got two living by her and one by my second wife.
Q Who is George T.? A My little boy.
Q By your wife, Ann? A Yes, sir.
Q Joseph H. by your wife, Ann? A Yes, sir.
Q Lesley T. is dead; died May 14, 1902? A Yes, sir.
Q The other two children are living, are they? A Yes.
Q Any children by your first wife? A Yes, sir, one little boy, Tommie Johnson.
Q Is he grown up? A Going on twelve years old.
Q Where is he? A He's at home.
Q He is living, is he? A Yes, sir, all three of them is living.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the application foregoing, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 11th day of November, 1902.

Notary Public.

0323

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory April 8th 1902.

.....

No. Cherokee D 323.

.....

In the matter of the application of George W. Johnson for the enrollment of himself, his wife and children

BRIEF OF THE CHEROKEE NATION.

The testimony in this case shows that George W. Johnson is a white man, he so admits it in his testimony and appears upon the roll of 1880 as such and that since the death of his Shawnee wife he has subsequently intermarried with a white woman and the Cherokee Nation contends that under section 666 of the Compiled Laws of the Cherokee Nation he has forfeited his right to be enrolled as a citizen of the Cherokee Nation by intermarriage.

We contend that his status as shown upon the roll of 1880 was fixed and determined by section 21 of the Curtis Bill which provides that "The Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty as the only roll intended to be confirmed by this and preceding acts of Congress"

Prior to June 10, 1896 the question of ones citizenship status was for the Cherokee Nation alone to determine and when the roll of 1880 was made it was made by the Cherokee authorities alone. The Cherokee authorities at that time had unquestioned jurisdiction to determine who its citizens were and their status. The status of the applicant was fixed upon that roll The Cherokee nation is estopped from denying or attacking it. We contend that the applicant is equally as bound by the roll of 1880 as is the Cherokee nation. The Commission to the Five Civilized Tribes is authorized and directed to take the roll of 1880, and we contend that it is powerless to change or vary it and that it is concluded by what the roll of 1880 says of the status of the applicant and if that be true, he is a

xxxxxxx white man and a subsequent intermarriage with a white woman clearly forfeits his right to be enrolled as a citizen of the Cherokee Nation.

Prior to June 10th 1896 any citizenship that had been granted previously could be taken away by the Cherokee nation as determined by the Supreme Courtof the United States on appeal from the Chickasaw nation in the Roff case where it was decided that the power that could confer citizenship could take it away and we submit that if this applicant was given citizenship in the Cherokee nation by virtue of the fact that he was married to a shawnee woman that it did not make him a shawnee by blood and while he may have had all the rights of a shawnee woman that did not prevent him from being in a psosition to forfeit his citizenship as any other white man in the Cherokee Nation who has intermarried with a Cherokee woman because any intermarried citizen in the Cherokee nation has the same property rights as a Cherokee by blood.

It certainly never was intended to grant white people citizenship in the Cherokee nation except along with their indian wives.

Even if the applicant himself was admitted as a citizen by adoption it is not conceived upon what theory his wfe or children could be admitted; our intermarriage law only provides for making citizens of those persons who intermarry with a Cherokee, Delaware or Shawnee woman and if this is considered to mean thefeminine as well as the masculine, in this case the wife of George W. Johnson could notmarry a Cherokee, Delaware or Shawnee as he was clearly a white man without a drop ofIndian blood in his veins and here it might be well to propose the query; How willl she be classified and how will her children be classified. If the Cherokee law and Cherokeecustoms are of any force with the Commission neither he nor his family will be enrolled inasmuch as when the roll of 1880 was authenticated, the National Council, after a full examination of the case fixed his status as an intermarried whiteman and this roll was authenticated by the National Council and was for tweny years not attacked by the applicant. He did not seek to have it changed in any way but abided by it and acquiesced in it; and we confidently submit that it is the duty of this Commission to take the roll of eighteen hundred and eighty as they find it and it is not within the jurisdiction of this commission to change ones staus from the way his name appears upon that roll and if this be

true the applicant forfeited his right to be enrolled as a citizen of the Cherokee nation by the intermarriage with his present wife a white woman.

Respectfully submitted,

W. Hastings J.C.S.

Attorney for the Cherokee nation.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

CHEROKEE ENROLLING OFFICE.

In the matter of the application of George W. Johnson for enrollment as a citizen of the Cherokee Nation.

Brief of applicant for enrollment.

This case presents a peculiar condition, but one which we think does not present any matter difficult of determination.

The proof shows that the applicant George W. Johnson was married in the State of Kansas to a Shawnee Indian woman, and that said marriage took place prior to the time of the making of the Treaty between the Cherokee Nation and the Shawnees. That after said marriage the applicant was formally adopted into the Shawnee tribe and that when a Register of the Shawnees who came to the Cherokee Nation was made, his name was placed upon the Register as a citizen of the said Shawnee Tribe. The Shawnee agreement was simply a purchase of a right in the Cherokee Nation for a valuable consideration and the applicant having been at the time of the purchase a duly recognized member of the Tribe, and payment having been made to cover the right in the Cherokee Nation, acquired by him, and he having complied with all the requirements of the said Treaty, he at once became a full citizen of the Cherokee Nation, entitled to all the rights and privileges of such a citizen.

The applicant was recognized by the authorities of the Cherokee Nation, and was enrolled by them as a citizen of said Nation on the Roll of 1880, and has continued to exercise all the privileges of Cherokee citizenship up to this time, his right to citizenship having never been

disputed until the matter of making the present Roll came up.

It now appears that the applicant after the death of his Shawnee wife has married a white woman, who was a citizen of the United States, and it is contended by the Counsel of the Cherokee Nation that the applicant has forfeited all of his rights to Cherokee citizenship by the said marriage.

The last paragraph of the Shawnee Treaty of June 7, 1869 provides--" that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect, and with all the privileges and immunities of native citizens of said Cherokee Nation."

We presume that the claim of the Cherokee Nation that the applicant has forfeited his rights to citizenship by his second marriage is based upon Section 666 of the Laws of the Cherokee Nation, Edition 1892, which is as follows:- Should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Cherokee Nation by marriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person(as the case may be) having no rights of Cherokee citizenship by blood; in that case, all of his or her rights acquired under the provisions of this act shall cease. " This Act seems to have been adopted on December 6, 1890.

This provision of the Cherokee Law does not apply in any manner to the present case., as the applicant has never acquired any rights by reason of marriage to a citizen of the

Cherokee Nation, and consequently could not be held to come under the provisions of an Act passed solely to cover the case of citizens adopted by intermarriage.

The applicant purchased a right in the Cherokee Nation, and was adopted by the solemn Treaty of the Cherokee Nation, by the very terms of which he was given all the rights and privileges of a native born citizen of the Cherokee Nation.

It could not for a moment be held that a native born citizen of the Cherokee Nation would forfeit his citizenship in said Nation by marrying a white woman, and why then can it be claimed that the applicant herein, who stands in exactly the same condition as if he were a native born Cherokee, can forfeit his rights by marriage?

We respectfully submit that the applicant should be enrolled for two reasons:

First. Because he could not forfeit any right of citizenship by his marriage, and

Second. Because his name appearing upon the Cherokee Roll of 1880 which has been expressly confirmed by Congress, he can not now be deprived of any right of citizenship.

Respectfully submitted This March 5, 1902.

N. A. Gibson

Attorney for Applicant.

Service of a true copy of the foregoing brief accepted this March 5, 1902.

Attorney for Cherokee Nation.

No. D323

Copy

In re George W. Johnson's application for enrollment as a Cherokee Citizen

Brief of applicant

N. A. GIBSON,
ATTORNEY-AT-LAW,
MUSKOGEE,
IND. TER.

Cherokee D 323

aab

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of George W. Johnson for the enrollment of himself and his three minor children, Lesley T., George T. and Joseph H. Johnson, as citizens of the Cherokee Nation, and for the enrollment of his wife, Ann Johnson, as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N

The record in this case shows that on September 17, 1900, George W. Johnson appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and for his three minor children, Thomas, George T., and Joseph H. Johnson, as citizens of the Cherokee Nation, and for the enrollment of his wife, Ann Johnson, as a citizen by intermarriage of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 7, and October 16, 1902. On October 25, 1901, a birth affidavit was filed for Lesley T. Johnson. Thomas Johnson is differently classified and is not embraced in this decision.

The evidence shows that George W. Johnson is a white man, but his name appears on the Register of Shawnees who removed to the Cherokee Nation prior to June 10, 1871, according to the terms of the Cherokee-Shawnee agreement approved June 9, 1869. He is identified on the Cherokee authenticated tribal roll of 1880 and on the Cherokee census roll of 1896, both as an adopted white man and as an adopted Shawnee.

On February 14, 1894, the said George W. Johnson was lawfully married to Mrs. Ann Richardson, a white woman, who is identified on the Cherokee census roll of 1896.

The children above named are the issue of the marriage aforesaid and they are all identified by birth affidavits made a part of the record herein. It appears however that Lesley T. Johnson died May 14, 1902, as evidenced by an affidavit of death made a part of the record herein.

The evidence further shows that George W. Johnson has resided in the Cherokee Nation for the past fourteen years, and that he and his said wife, Ann, have been living together in said nation ever since the date of their marriage. George T. and Joseph H. Johnson are minors and their residence is considered to be that of their parents.

It is, therefore, the opinion of this Commission that George W. Johnson, George T. Johnson and Joseph H. Johnson should be enrolled as citizens of the Cherokee Nation, and that Ann Johnson

should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress, approved June 28, 1898 (30 Stats., 495) and it is so ordered. It is further ordered that the application as to Lealey T. Johnson be, and the same is hereby, dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

SIGNED: Tams Bixby
Acting Chairman.

SIGNED: T. B. Needles
Commissioner.

SIGNED: C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,

this NOV 20 1902

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes

Muskogee I. T. December 9th 1902.

Cherokee D 323.

Protest of the Cherokee Nation

In the matter of the application of George W Johnson for the enrollment of himself and his wife and children as citizens of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission rendered in this case on November 20th 1902 and asks that the same be forwarded to the Honorable Secretary of the Interior for review. Attention is called to the brief filed by the Cherokee Nation in this case.

It will be noted that George W Johnson is a white man, that his wife is a white woman and that his children have no Indian blood in their veins and it will be further noted that in the judgment enrolling these people they are not classified as Shawnees, or intermarried whites and for the reasons assigned in our brief before the Commission we do not see how these people can under the law be enrolled as citizens of the Cherokee Nation.

Respectfully submitted,

W W Hastings JOB

Attorney for the Cherokee Nation.

Muskogee I. T. April 8th 1902

Mr. N. A. Gibson,

Muskogee I. T.

Dear Sir:

Inclosed herewith find brief of Cherokee Nation in the case of George W. Johnson et al.

Cherokee D 323.

Yours truly,

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-325.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, November 26, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 20, 1902, granting the application of George W. Johnson for the enrollment of himself and his two minor children, George T. and Joseph H. Johnson, as citizens of the Cherokee Nation, and for the enrollment of his wife, Ann Johnson, as a citizen by intermarriage of the Cherokee Nation, and dismissing his application for the enrollment of his minor child, Lesley T. Johnson, as a citizen by blood of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-185.

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 323.

Muskogee, Indian Territory, December 13, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated November 20, 1902, granting the application of George W.Johnson for the enrollment of himself and his two minor children,George T. and Joseph H. Johnson, as citizens of the Cherokee Nation, for the enrollment of his wife, Ann Johnson, as a citizen by intermarriage of the Cherokee Nation, and dismissing his application for the enrollment of his minor child, Lesley T. Johnson, who died on May 14, 1902, a copy of which decision was furnished you on November 26, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

(COPY)

D.C. 83188-1906. Y.P.

DEPARTMENT OF THE INTERIOR

WASHINGTON. FEE.

I.T.D. 1414-1903. November 28, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

Referring to departmental letter of July 20, 1903, in the matter of the application for the enrolment of certain persons as citizens of the Cherokee Nation, including Ann Johnson as a citizen by intermarriage, in view of the decision of the Supreme Court of the United States, dated November 5, 1906, in the cases of Daniel Red Bird, et al., vs. the United States, Nos. 125, 126, 127 and 128, appealed from the Court of Claims, the application for the enrolment of said Ann Johnson is denied. The claims of the other applicants were disposed of in said letter.

The papers in the case have been sent to the Indian Office.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

6 inc. for Ind. Of.

REFER IN REPLY TO THE FOLLOWING:

Cherokee
D 323

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

Muskogee, Indian Territory, December 14, 1906

W. W. Hastings,

Attorney for Cherokee Nation.

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes dated November 20, 1902, granting the application for the enrollment of Ann Johnson as a citizen by intermarriage of the Cherokee Nation was reversed by the Secretary of the Interior on November 28, 1906.

For your information a copy of the Departmental decision referred to is herewith enclosed.

Respectfully,

Commissioner

Encl. B-78 1/2

Johnson Frank

FOR ENROLLMENT AS C 232

CHEROKEE CITIZENS.

A - Original testimony - September 17, 1900
B - Memo of application - " 17 - 1900
C - Birth affidavit - George T. Johnson
D - " " Joseph H. Johnson
E - Birth certificate of Lesley T. Johnson
F - Notice of final consideration

G - Marriage license & ret
H - Order closing testimony, Feb. 24, 1902
I - Brief of applicants

OCT 2 1907

See Cherokee Jacket 2895-

77

Cher D 324

To be filed with U. S. vs. John R. Begle et al.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., SEPTEMBER 17th, 1902.

IN THE MATTER OF THE APPLICATION OF Francis Marion Dawson, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Francis Marion Dawson.
Q What is your age? A I am fifty eight years old.
Q What is your Postoffice? A Ogema.
Q What District do you live in? A Delaware.
Q Who is it you want to have enrolled? A Myself and family.
Q Your wife? A Yes, sir.
Q How many children? A Six.
Q Do you apply for enrollment as a Cherokee by blood? A Yes, sir.
Q Is your wife a Cherokee by blood? A No, sir; she is a white woman.
Q How long have you lived in the Cherokee Nation? A Since 1883.
Q Were you admitted by the Cherokee Commission? A Yes, sir.

The applicant presents a duly authenticated certificate of admission to citizenship, showing that on the 17th day of January, 1883, certain persons were admitted by the Commission on citizenship, and among them appears the name of F. M. Dawson.

Q That is your name is it? A Yes, sir.

This is recognized as satisfactory evidence of the facts stated.

Q Have you lived in the Cherokee Nation ever since your admission?
A Yes, sir; in Delaware District ever since.
Q Give me the name of your wife? A Katie Dawson.
Q How old is she now? A Forty five.
Q Was she admitted with you? A No, sir.
Q Have you married her according to Cherokee law since your admission? A No, sir.
Q You have not remarried since your admission? A No, sir; it was not necessary.

The applicant produces a duly authenticated marriage license and certificate, showing that he was married to his wife, as stated by him, in 1880, by the Reverend R. V. Cowdlock, in Carroll County, Arkansas, the license being issued by the Clerk of that County.

These papers are filed herewith.

Q Your wife was not admitted by the Cherokee Commission, when you were? A No, sir.
Q Or at any other time? A No, sir.
Q By act of the Commission or Council? A No, sir; she was placed on the rolls.
Q On the census rolls? A Yes, sir.
Q Give me the names of your children, please? A Lula.
Q How old? A Seventeen.
Q Next child? A Ray.
Q How old? A Fifteen.
Q Next child? A Jessie Jane.
Q How old? A Fourteen.
Q Next child? A Jacob Lowy.
How old? A Ten.
Q Next child? A Mary A.
Q How old? A He is eight I believe.

Q Next child? A Laura.
Q How old is that child? A She is four years old.
Q Is that all? A Yes, sir; six of them. I have others, but they are not at home.
Q Are they married? A No, sir.
Q Are they over age? A Yes, sir.

(1896 Roll, Page 461, #902, Francis Marion Dawson, Delaware.)
(1896 Roll, Page 569, #135, Katie Dawson, Delaware District.)
(1896 Roll, Page 461, #903, Lula Dawson, " ")
(1896 Roll, Page 461, #904, Ray Dawson, " ")
(1896 Roll, Page 461, #905, Jesse James Dawson, Delaware Dis't.)
(1896 Roll, Page 461, #906, Jacob Levy Dawson, " ")
(1896 Roll, Page 461, #907, Hugh A. Densmore Dawson," ")
(1896 Roll, Page 461, #908, Laura Albertie Dawson, " ")

Q Is this Lula or Luly? A Luly.
The applicant applies for the enrollment of himself, wife and six children:
Q Were these children all born since you were admitted into the Cherokee Nation? A Yes, sir.

The applicant is shown by the certificate of admission, cited in the testimony, to have been admitted to Cherokee citizenship, by the Commission on Citizenship, January 11th, 1883; he is identified on the roll of 1896, but the representative of the Cherokee Nation desires to make inquiry into the methods of that time, and for that reason, the application of the applicant will at present be placed on a "Doubtful Card." He has lived in the Cherokee Nation ever since his admission to citizenship. His wife was married to him under United States law, and was married prior to his admission: she has never been remarried according to Cherokee law: She has lived with him ever since his admission to citizenship, and she is identified on the roll of 1896. The application for her enrollment will be placed on a "Doubtful Card".
Their six children, as enumerated in the testimony are identified on the roll of 1896: They are living at this time, all having been born since his admission (Applicant's). These children will be placed with him on a "Doubtful Card". The applicant's marriageto the mother of these children is established by the marriage license and certificate filed herewith. If any additional papers, adverse are developed in this case, he will be given timely notice thereof.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) R. R. Cravens.

Subscribed and sworn to before me
this 18th day of September, 1900.

(Signed) C. R. Breckinridge,

Commissioner.

BEFORE THE HONORABLE COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the enrollment :
of F. M. Dawson and others as :
Cherokee citizens. :

Depositions of sundry persons in behalf of the applicants for enrollment mentioned in the title, taken before me, Lewis T. Martin, a Notary Public in and for the Northern District of the Indian Territory, duly appointed, qualified and acting as such, at the office of G. B. Denison in the Gray-Halsell building in the town of Vinita, Indian Territory, on Thursday the fourth day of October 1900, between the hours of one and a half o'clock and six o'clock in the afternoon of said day, in accordance with the agreement to take testimony, entered into between the applicants and the Cherokee Nation, by their respective attorneys, which agreement is hereto attached.

T. F. Thompson, being produced by the applicants, being first duly sworn to testify to the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION BY G. B. DENISON:

Q State your name, age, residence and occupation?
A T. F. Thompson, 53 years old, I live near Vinita, Cherokee Nation, I. T. I am a farmer.
Q How long have resided in the Cherokee Nation? A All my life.
Q Are you a citizen of the Cherokee Nation as now constituted?
A Yes, sir.
Q Upon what is that citizenship based, blood or otherwise?
A Blood.
Q What, if any official position have you held in the Cherokee Nation, and at what time?
A I was elected to the Cherokee Council in 1870 some odd, I don't remember the exact year, I was also on the Commission Court.
Q Do you remember when that was? A Some tim in 1870 or 1871, I think, it may have been earlier.
Q Did that Commission or Court have anything to do with admission to citizenship in the Cherokee Nation? A Yes, sir.
Q State, if you remember, how many members of that Commission or Court, there were, and who they were besides yourself?
A There were three, Tehee, Wolf and myself, Tehee was President of the Court.
Q Where were the sessions of that body held? A Tahlequah, Cherokee Nation.
Q Did you have a Clerk? A Yes, sir.
Q Do you remember who that was? A D. W. C. Duncan.
Q Do you know whether the members of that Commission beside yourself, are living or dead? A Yes, sir, they are both dead.
Q Can you recollect now what period of time that Commission lasted?
A About two years I think, two, sessions, and there was one session each year.
Q Were the sessions of that body held in Tahlequah, open to the public at all times when it was in session?
A Yes, sir.
Q Were the cases coming before that body heard in open session?
A Yes.
Q Witnesses examined orally? A Yes, sir.

Q Judgments of the Court or Commission pronounced in open session?
A In case of decisions I think they sometimes had secret sessions, yes, the judgments of the Commission were pronounced openly.
Q What you intended to convey by you answer to the former question was that after hearing the proof the Commission or Court deliberated in secret session upon the testimony taken before reaching a decision or announcing it? A After hearing all the testimony we went into secret session.
Q I will present you with a paper which the Notary will mark exhibit "A" and a copy of which he will attach to your deposition, and will ask you if with the exception of the certificate of record by M. L. Bragdon, Clerk, and John L. Adair Asst. Ex. Secretary, you recognize it as a paper you have ever seen before?
A I recognize the signature to it, but don't remember the instrument.
Q Which signature on that paper do you recognize? A My own.
Q That signature is in your own handwriting? A Yes, sir.
Q Do you know whether Thomas Tehee, president of the Commission could write in English or not? A No, I don't think he could.
Q How as to Alexander Wolfe, a member of the Commission?
A I don't think he could write either, I don't think either of them ever wrote except by touching the pen.
Q Were you, and are you familiar with the handwriting of D. W. C. Duncan, the Clerk of that Commission?
A Tolerably well, but it has been a long time since I saw any of it.
Q Will you look at the paper again and say whether you recognize his signature attached thereto?
A Yes, that is his signature to the best of my knowledge.
Q Do you preserve any personal recollection of the application before that Commission of F. M. Dawson and other members of the Dawson family, to be admitted as citizens of he Cherokee Nation by that Commission?
A I remember F. M. Dawson and his brother, that is about the only ones I remember.
Q The question was not as to the personal recollection of the individuals, but as to the claim being presented by the Dawsons for admission?
A Yes, there was such a claim before the Commission.
Q Can you state as to the citizenship of Thomas Tehee, whether he was a citizen of the Nation by blood or not?
A Yes, sir, he was always recognized as such, full blood besides.
Q What is your knowledge of Alexander Wolfe?
A About the same, he was also a full blood and recognized as a Cherokee.
Q Judge Thompson, if you possessed or had, or have now any knowledge of any corruption or bribery of the court or Commission, or any member of it by F. M. Dawson or any of the Dawson family or anybod, connected with the presentation of their claim for citizenship, state it fully?
A None whatever as far as I was concerned, and I don't think there was by the balance of the Court.

CROSS-EXAMINATION BY W. T. HUTCHINGS:

Q Do you mean to say Mr. Thompson that your name attached to the certificate shown you is in your handwriting?
A Yes, sir.
Q When Mr. Duncan certified that this is a transcript of the decision in the case, he is mistaken, that is the original?
A No. I don't know, that may be the original, if that is not the original I did not sign it, if it is the original I signed it.
Q You state that the witnesses were examined orally before the Court, don't you know that in almost every case you took ex parte

affidavits of witnesses when those witnesses were not present?
A I think we ruled exparte evidence out, as well as I remember.
Q Did you have any stenographer or anybody to copy the evidence?
Mr. Duncan did all of the copying.
Q Was the evidence copied and preserved?
A Yes, sir, I think it was.
Q What was done with that evidence, where was any of it ever put?
A I suppose it is at Tahlequah in the office of the Treasurer or Secretary.
Q When you went into secret session did you have Mr. Duncan read that evidence to you?
A Yes, sir, we went over the evidence thoroughly.
Q Did you allow the applicants or their attorneys admission to any of your secret sessions?
No, sir.
Q When you got ready to render your decisions did you then send for the applicants or their attorneys?
A No, sir.
Q And you rendered them in secret also, did you? A Yes, sir.
Q Have you any recollection who testified in the Dawson case, as to their claim? A No, sir, I have not.
Q Have you any recollection as to who they claimed their Cherokee ancestors were? A Yes, sir, they claimed the Rogers.
Q Did they claim relationship with any of the present families of Rogers residing in the Cherokee Nation?

The applicant objects to this question as tending to elicit testimony wholly incompetent and irrelevant to the issue, and not cross-examination of this witness.

A I don't know that they did, particularly.
Q How would your court determine when they claimed descent through some Rogers family, that that family was of Cherokee blood?

The applicant objects to the question upon the same grounds as their objection to the previous question.

A By the evidence they produced.
Q Didn't you make them prove that that family was well known at one time to be connected with the Cherokee Nation, and were citizens thereof? A Yes.
Q Who was the attorney for the Dawsons? A Old man Houston Benge.
Q Could either Tehee or Wolfe speak English? A They could understand, but they never spoke English, they had an interpreter.
Q Did you ever talk to either of them as to whether they got anything for decidingthis case? A No, sir.
Q How long were you considering the case altogether?
A I could not say as to that, I think we were on it two or three weeks anyhow, I could not say positively now, they were a long time getting in testimony.
Q There were only two or three witnesses examined all told, were there not?
A I think so, three I think, they had quite a lot of affidavits, but we did not consider them.
Q Well the Court was a good while arriving at its conclusion after the evidence as closed?
A Yes, quite a good while, I don't remember the exact time.

RE-DIRECT EXAMINATION:

Q Do you remember who the interpreter the Commission had during the hearing of the Dawson case.
A His name was Reese, I forgot his given name.

Q Do you know whether he is living or dead?
A I don't know, he seemed to be in bad health at the time we had the case up, I think they are all dead but me and Mr. Duncan.
Q What was he, a Cherokee by blood?
A He was considered a Cherokee by blood.
Q Do you know where he lived at that time?
A No, sir, he lived in the South part of the Nation though, I think in Sequoyah.

(Signed) T. F. Thompson.

Copy of Ex. "A" to T. F. Thompson's testimony.

CERTIFICATE OF RECORD.

United States of America,
Indian Territory,
Northern District.

I, Marshall L. Bragdon, Clerk of the United States Court in the Indian Territory, her by certify that the instrument hereto attached was filed for record in my office the 9 day of March, A. D. 1893, at 10-30 o'clock A. M. and duly recorded in book C. Micl Record Mortg. & Liens, page 339,

Witness my hand and seal of said court at Muscogee, in said Territory this 16 day of March, A. D. 1893.

(SEAL) M. L. Bragdon,
Clerk.

Transcript to which this is attached, endorsed on back as follows:

"No. 108, Robt. Dawson et al, VS the Cheroke Nation, Transcript of Judgment, Filed Mar. 9, 1893 10-30 A. M. Marshall L. Bragdon, Clerk.,

OFFICE OF COMMISSION ON CITIZENSHIP,
TAHLEQUAH, CHEROKEE NATION, JANUARY 11th, 1883.

Robt. Dawson, F. M. Dawson, Elbert Dawson, Jasper Dawson, John Dawson, Josephine Dawson, Joseph Dawson, Jane Dawson, Molly
No. 108 Dawson, Wilbron Dawson, James Dawson, Rial Dawson,
VS,
The Cherokee Nation.

And now on this, the 11th day of January, A. D. 1883, this case coming on for final hearing and all the evidence produced in the case being carefully read and duly considered by the Commission, it was adjudged and determined by the Commission on Citizenship, that the claimants, Rob't Dawson, F. M. Dawson, Elbert Dawson, Jasper Dawson, John Dawson, Josephine Dawson, Joseph Dawson, Jane Dawson, Molly Dawson, Wilbron Dawson, James Dawson, and Rial Dawson, are Cherokees by blood; and that they are entitled to all the rights and priviliges of Cherokee citizenship within the Cherokee Nation, and that they should be, and they should be, and they are hereby

admitted to the full and complete enjoyment of the same in all respects as native born Cherokees.

D. W. C. Duncan,) Thomas Tehee, President of Com.
Clerk of Commission.) Alex Wolf,) Commissioners.
T. F. Thompson,)

I hereby certify that the above is a correct transcript of the decision of the Commission on Citizenship in the above entitled case as appears of the record in my office.

D. W. C. Duncan,
January 11th, 1883. Clerk of Commission.

Executive Department,
Tahlequah, Cherokee Nation,
January 11th, 1883,

I hereby certify that the within named Commission on Citizenship, composed of Thomas Tehee, President, Alex Wolf and T. F. Thompson, are now and were at the time the within named persons were admitted to Cherokee Citizenship, a duly authorized and Commissioned Commission on Citizenship, and that their actions as such are legal and binding.

Witness my hand the

Witness my hand and the seal of the Cherokee Nation, on the date above written.

John L. Adair,
Asst. Ex. Secretary.

United States of America,
Indian Territory,
Northern District,

I, Lewis T. Martin, a Notary Public in and for the Northern District of the Indian Territory, duly appointed, qualified and acting as such, do hereby certify that the above and foregoing two pages, consisting of this one and the preceding one which is attached hereto, is a true, complete, and perfect copy of the transcript of the judgment of the Commission on Citizenship as the same was presented to me during the examination of T. F. Thompson as a witness, and identified by me at the time by writing thereon "Exhibit A" to testimony of T. F. Thompson, L. T. M. - N. P. Oct. 4, 1900." The foregoing copy having been carefully compared by me with the said original.

Given under my hand and seal of office as such Notary Public, this 4th day of October, A. D. 1900.

(SEAL) (Signed) Lewis T. Martin.

Notary Public.

My commission expires Feb 3rd. 1902.,

D. W. C. Duncan being produced by the applicants after being sworn to testify to the truth, the whole truth and nothing but the truth testified as follows:

DIRECT EXAMINATION BY G. B. DENISON:

Q Please state your name, age, residence and occupation?
A My name is D. W. C. Duncan, my age is 70 years, my residence is Vinita, Indian Territory, my occupation is a farmer.
Q How long has that been your place of residence? A Since 1874.
Q Are you a member of the Cherokee Nation as it is now constituted?
A Yes, sir.
Q Upon what is your citizenship based, a Cherokee by blood?
A Yes, a Cherokee by blood.
Q In January 1883, did you hold any official position in the Cherokee Nation, if so, what was it?
A About that time I held the position of Clerk of the Citizenship Court or Commission.
Q If you remember the names of themembers of that Commission or Court, please give them?
A The President of the Commission was Tehee I believe, and a member by the name of Wolfe whose first name I do n t recollect, and Mr. Thompson here.
Q T. F. Thompson?
A Yes.
Q Do you know whether those three members of that Commission were recognized citizens of the Cherokee Nation, and whether their citizenship was based upon blood or not?
A They were supposed to be citizens of the Cherokee Nation and their citizenship was based upon their blood.
Q Will you please look at the paper now handed you which the Notary has marked exhibit "A" to the deposition of Mr. T. F. Thompson, and a copy of which he will attach to Mr. Thompson's depositions, and state whether with the exception of the certificate of H. L. Bragdon, Clerk, and of John L. Adair Asst. Ex. Secretary, you recognize the paper as one you have ever seen before?
A Yes, I think I have seen this before.
Q When, and where, if you remember, did you first see that paper?
A This is a paper I drew up at the time I was acting as clerk of the said Citizenship Court.
Q Looking at its date, was it drawn at you at the time it bears date?
A To the best of my recollection it was drawn at the date specified.
Q Do you recognize the signature to the certificate attached to that paper?
A Yes, that is my signature.
Q State if you know, in whose handwriting the body of the paper is?
A It is in my handwriting.
Q And at that time you were Clerk of that Commission? A Yes.
Q Will you please look at the signatures of the members of the Commission as they appear on that paper, and state if you can, by whom they were written?
A I think the first two is my handwriting, the last I recognize that as T. F. Thompson's.
Q Explain please, how you came to write the signatures of Thomas Tehee and Alex Wolfe to that paper?
A Thomas Tehee and Alex Wolfe were full bloods and could not write, and in their presence, and at their request I wrote their signatures.

Q Was that the usual manner of certifying to the action of the Commission to applicants as to the decision of their application for citizenship, where admitted?
A In all instances where it was necessary for the Court to sign a paper of any kind it was adopted by that Court for the Clerk to sign Tehee's and Wolf's names and T. F. Thompson to sign his own name.
Q You didn't catch exactly my idea, but perhaps that answered it, what I intended to call you attention to, was whether when applicants had been admitted to citizenship a paper of this kind now shown you, signed by the judges as you have explained, and certified by you as a transcript of the proceedings was issued?
A My recollection is that a transcript of the judgment was issued to the applicant when they were admitted at their request, the judgment was entered upon the record when they were admitted and signed by the judges, and whenever the transcript was delivered to the applicants I think it was signed by the judges.
Q If you had any knowledge at the time the application of the Dawson family, F. M. and others whose names are mentioned in tht paper, was pending before that Commission, or before or after, of any corruption or bribery, or attempted corruption or bribery of the Court or any of its officers, by F. M. Dawson, or any person connected in any manner with the claim of the Dawsons to citizenship in the Cherokee Nation, state it fully?
A I never heard a thing of the kind, I know nothing of the kind, all that I have ever heard about a question of that kind is what has originated recently, since the enrollment business has been inaugurated.

CROSS-EXAMINATION BY W. T. HUTCHINGS:

Q If as you certify, this paper was a transcript of the record, why did you have the judges sign it?
A I know no reason further than that was the practice at that time, the members of the Court being present I presume it was thought it would be as good or better than the signature of the Clerk.
Q Examine that signature of Mr. Thompson, examine the first T in his name and the T in Tehee's name and see if it is not all your own handwriting?
A No, I would not call that mine, there is a resemblance between the letters but I am satisfied it is a mere fortuity, accidant.
Q How was the evidence taken in those cases?
A It was taken by the witness being present and detailing his knowledge of the case, I wrote it down sentence by sentence as it was delivered.

Q Do you know whether that evidence is in existance or not?
A I do not, the last I saw of it was when I turned the records over to the Executive office at Tahlequah, and I have not seen it since.
Q You say you never heard any talk about this being an improper case until very recently?
A Well, that would depend upon what you mean by recently, I don't think I ever heard of it prior to three years ago, I can safely say that did not.

Q. Do you remember through whit ancestor they claimed their right to citizenship here?

Objected to by applicants because the question tends to elicit testimony which is wholly incompetent and irrelevant, and because it is not proper cross-examination.

A. They claimed their right of citizenship through a man by the name of Rogers, I don't recol ect his first name.
Q. Do you know how many Rogers families there are who have citizenship in the Cherokee Nation?
A. I do.

(Signed) D. W. C. Duncan.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT,

I, LEWIS T. MARTIN, a Notary Public in and for the Northern District of the Indian Territory, do certify that the foregoing depositions of T. F. Thompson and D. W. C. Duncan were taken before me at the time and place and in the action mentioned in the caption, and said T. F. Thompson and D. W. C. Duncan, having been first by me sworn that the evidence they should give in this matter should be the truth, the whole truth and nothing but the truth, and that their statements were reduced to writing by me on the typewriter in their presence; the claimants being present in person and by their attorney G. B. Denison, and the Cherokee Nation being represented by W. T. Hutchings Esquire its attorney,.

Given under my hand this 4th day of October, A. D. 1900.
(SEAL) (Signed) Lewis T. Martin.

Notary Public.
My commission expires 2/3/1902.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., April 8, 1902.

In the matter of the application of Francis Marion Dawson et al for enrollment as citizens of the Cherokee Nation,. He being sworn and examined by the Commission, testified as follows:

Q What is your name? A Francis Marion Dawson.
Q How old are you? A Soon will be sixth years old.
Q What is your postoffice address? A Afton now, it used to be Oseuma.
Q What was the name of your wife? A My first wife was Julia Ann Howard.
Q She was a white woman? A Yes, sir.
Q When were you married to her? A I think it was the 8th of January, 1864.
Q Where were you living at that time? A In Arkansas.
Q Who married you? A A man by the name of Dave Sturdy.
Q Was he a preacher? A Yes, sir.
Q A Minister of the Gospel? A Yes, sir.
Q Did you and she live together as husband and wife up to the time of her death? A Yes, sir.
Q Did you have any children by her? A Yes, sir.
Q What are their names? A William R. Dawson.
Q The next one? A Francis Marion Dawson Jr.
Q The next one? A Johnnie.
Q The next child? A Elizabeth.
Q The next one? A Arizona Allred.
Q Those are all the children you had by your first wife? A Yes, sir.

Joseph R. Dawson, being sworn and examined by the Commission, testified as follows:
Q What is your name? A Joseph R. Dawson.
Q How old are you? A I will be 51 the 13th day of June.
Q Are you related to the applicant here in this case, Francis M. Dawson? A Yes, sir.
Q How are you related to him? A Brother.
Q Did you know his former wife, Julia? A Yes, sir.
Q Is she living or dead? A She is dead.
Q Was she a Cherokee or white woman? A I couldn't say what; She they married in the states.
Q Do you know when he was married to her? A Yes, sir.
Q When was it? A About the close of the war.
Q Who married them? A Parson Sturdy.
Q Were you present when they were married? A Yes, sir.
Q Did they continue to live together as man and wife up until the time his wife Julia died? A Yes, sir.

John K. Stevens, being sworn and examined by the Commission, testified as follows:
Q What is your name? A John K. Stevens.
Q How old are you? A 58 years old.
Q What is your postoffice address? A Afton.
Q Are you acquainted with the applicant here in this case, Francis H. Dawson? A Yes, sir, as we call him, Bud Dawson.
Q How long have you known him? A My first acquaintance with him was in '61.
Q Did you know his first wife, Julia? A Yes, sir.

Q Do you know whether or not they were married? A Yes, sir, they were married.
Q Were you present at the marriage? A No, I wasn't present at the marriage.
Q Did you see them soon after their marriage? A Yes, sir.
Q Did you continue to know them for any length of time afterwards? I knowed them as long as she lived.
Q During the time you knew them did they live together as husband and wife? A Yes, sir.
Q Were they recognized in the community as such? A Everybody recognized them.

This testimony will be filed with and made a part of the record in the following Cherokee cases:
Arizona Allred et al D-835, John Dawson, D-580, William R. Dawson D-581, Lizzie Dawson D-584 and Francis M. Dawson Jr. D-588.

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I, the undersigned stenographer to the Commission to the Five Civilized Tribes, do hereby certify that I recorded the proceedings in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

(Signed) E. G. Rothenberger.

Supl.-C. D. #324.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 17, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of FRANCIS M. DAWSON, ET AL., as citizens of the Cherokee Nation:

The case having been set for final hearing March 17, 1902, the following proceedings were had:

APPEARANCES:
Mr. A. S. McKennon, of counsel for applicants;
Mr. W. T. Hutchings, of counsel for Cherokee Nation.

Mr. Hutchings: Comes now the Nation on the calling of this case and announces that it is ready for trial, provided permission is given to hereafter examine before the Commission, either at this place or Fort Gibson, the witness S. H. Benge, who has been regularly summoned to attend at this day and time but who is too sick to travel at this time and probably will be for some time to come. As evidence of a good faith of the Nation we hereby present an affidavit of the facts sought to be proven by the said Benge. If the applicant's counsel are willing to concede that the witness if present would testify to the facts herein set forth, the Nation is ready to proceed to trial without reservation of any kind. If they are not it desires to reserve this privilege of hereafter, either tomorrow or otherwise, this case being set for to-day and tomorrow, of examining before the Commission, or its authorized officer, this witness as above set forth.

Mr. McKennon: Applicants object to the introduction of the paper presented and do not admit that the witness, Samuel H. Benge if present would testify to the facts therein stated. They consent and desire that the testimony of said Benge be taken before the Commission at its office in Muskogee but not elsewhere, and protest against it being taken at any other place, with the understanding, however, that when taken we have opportunity to introduce any evidence we may desire in rebuttal.

Mr. Hutchings:
The Nation will pay all the expenses of the opposing Counsel, their client and Commission officers in taking the deposition at Fort Gibson.

Commissioner Breckinridge: The allegations of this witness are material in their character and are quite tangent. The Commission of its own volition would acquire information of that character if it knew of its existance anywhere. While the functions of the Commission, as well known are in many respects judicial, yet it is bodied with somewhat complex powers, such as Congress creates from time to time to do business of certain character, and it is ordered to make a correct roll, which is a duty largely independent of hearing simply what is brought before them; it must be the architect and constructor of that roll and if evidence is not brought before before the Commission it must go out and get it, to be uniform on that construction of the law. The Commission, therefore, desires this information independent of any counsel on either side both with respect to the applicant and to the Nation, and if this witness is

is not able to come one of the Commissioners will go to Fort Gibson and to his bed-side, or send a proper official, if necessary to take his testimony. The only matter to consider, therefore, is one of convenience with respect to getting this testimony. Now, I understand that this witness is an extreme sufferer from Bright's Disease he is an old man and he may never be able to get out of the house, and it may be an injustice to him to subject him to a trip here, and therefore it seems to me better that counsel for plaintiff submit to a form of taking a deposition or else accompany an official of this Commission over to Fort Gibson and let his testimony be taken there.

After consultation with the attorneys upon the two sides it is found to be agreeable that the parties start to Fort Gibson to-morrow morning at half past eight o'clock, and it is agreed then and directed with an official of the Commission with a stenographer leave from the office of the Commission for Fort Gibson at 8:30 to-morrow morning.

FRANCIS M. DAWSON, the applicant, re-called for additional cross-examination on part of the Cherokee Nation:

MR. HUTCHINGS:

Q What is your name? A Francis M. Dawson.
Q Where do you reside? A In Afton.
Q You have been examined in this case heretofore, have you?
A I don't know which case it is.
Q In your own case? A Yes, sir.
Q Are you the one that is commonly called Bud Dawson? A Yes, sir.
Q You made the original application in the Dawson family for admission to citizenship in the Cherokee Nation, didn't you? No, sir; my brother.
Q What was his name? A A. E. Dawson.
Q You and Robert Dawson and Elbert Dawson and others applied September 24, '81, about that time? A Yes, sir.
Q And you were admitted about the 11th of January '83? A Yes, sir.
Q There were other members of your family that applied and were admitted after that time? A Yes, sir.
Q Do you or not remember the evidence offered in theirs to substantiate their cases was the relationship between yourself and Robert and others and the evidence of your admission by the Tribal Court. In all the subsequent admissions I mean the only evidence offered was the fact that you and your brothers had been admitted before and that they were kin to you; that was the only evidence offered in any subsequent cases, wasn't it; so far as you know?
A That is afterwards?
Q Yes, afterwards? A I think there was some other evidence introduced.
Q Don't you know that there was never any evidence offered in any other case except evidence of Dr. Baker of Arkansas? A Yes, sir.
Q Who else? A Oliver Miller.
Q Who was Oliver Miller, the records in this case have been somewhat destroyed and mutilated? A Oliver Miller who lived in Arkansas.
Q What was he, who was he? A He is no kin to me at all.
Q Well, what station in life did he occupy; was he a farmer?
A Yes, sir, farmer.
Q Were you present when he testified? A Yes, sir.
Q Were you present when Dr. Baker testified? A Yes, sir.

Q Have you a fair recollection of the testimony of those two men?
A No, not at all.
Q You don't read do you, Mr. Dawson? A No, sir, I dont read nor write; I can barely write my name.
Q Do you think you would remember the testimony of Dr. Baker if your mind was refreshed on it? A Part of it I think.
Q Were you present when you were admitted? A I was not in the room.
Q You were in Tahlequah at the time? A I was in the town of Tahlequah at the time.
Q I will read this paer to you and desire for you to say whether or not it was the testimony of Dr. Baker in your case:
(Affidavit of Dr. Arthur Baker read to witness, and asked to be copied in the record later.)
Q Is that the correct transcript of the testimony? A It has been so long ago, I could not say; a part of it is, I could not remember it all.
Q Does that state the facts as to the family history correctly so far as you know about it? A So far as I know.
Q Now, you were a son of what Dawson? A Robert Dawson.
Q How many children did Robert Dawson have, and give me their names?
A Elbert Dawson, the oldest; Lila, Jesper, Francis Marion-
Q That is yourself? A Yes, sir; Elizabeth Dawson, Josephine Dawson, John Dawson, Joseph Dawson, Jane Dawson, James Dawson, Edna Dawson; Mollie Dawson, Wilburn Dawson.
Q Thirteen? (No response.)
Q Now, Rober Dawson's father was whom? A Sam Dawson.
Q Who was Sam Dawson's wife, your grandmother? A I have been told.
Q By family history is all you know? A She was called Polly Dawson.
Q Who was Anna Pruitt? A I don't know.
Q Never heard of anybody in the family by the name of Anna Pruitt? A No, sir, that was away back in the old country; I have heard talk about it, old Dr. Baker talked about it.
Q Your grand-mother's name was Polly Dawson? A Yes, sir; I don't remember seeing her but once, she died when I was small, died in Texas.
Q Pollie Dawson? A Yes, sir.
Q Ans she was known to be Pollie Rogers, her maiden name? A Yes, sir.
Q Daughter of Captain John Rogers? A Yes, sir.
Q Now, she died in Texas what time? A I don't remember.
Q Can't you guess at it? A Oh, I could guess.
Q Give your best recollection? A About '58 or '59, or no, '48 or '49; I don't say positive, just guessing at it.
Q How old a boy were you then? A I was born in '42.
Q Have you any distinct recollection of her? A No, sir.
Q Have you any recollection of all the children of Sam and Pollie Dawson; that is, your father, uncles and Aunts? I didn't see all of them.
Q Do you know by family history the names of all of them? A Yes, sir.
Q Will you give them to me?
A Betsy Ann Dawson, I believe her name was.
Q Did she marry a Petty? A Yes, sir; the next is Robert Dawson.
Q Your father? A Yes, sir.
Q Next one? A I think the next was James Dawson, and I think the next one was a girl, Edna Dawson.
Q Did he have two daughters? A Yes, sir.
Q Well sir? A The next one was Joe Dawson; I never saw him; Riley Dawson.

Q That is Samuel R. Dawson, Riley Dawson? A Yes, sir.
Q Any other one? A That is all I know anything about.
Q Did he have any child by the name of John? A Yes, Jack.
Q Didn't you get Jack misplaced with Joe? A No, it was Joe; I have heard my father speak of him.
Q Then they have seven children? A I never seen them all.
Q How many of them did you ever see? A I seed uncle Riley Dawson and James Dawson and Jack Dawson and Betsy Ann Petty; I don't think I saw but one of Pa's sisters and brother, they went to Mississippi I think.
Q Do you know what your family history says that the mother of your grandmother, Pollie Rogers' name was? A We have no history.
Q Well, as it was brought down to you; did you ever hear anybody say what your great grandmother's name was? A No, I don't remember.
Q What is that other man, Oliver Millerthat testified in your case? A He testified in James Dawson's case; he never testified in my father's case.
Q Well, didn't anybody testify in your case but Dr. Baker? A Yes, sir, several other witnesses.
Q Who were they? A I don't remember; my mother got them witnesses around Tahlequah, old people.
Q Were you present? A No, sir.
Q You were only present when Dr. Baker testified? A Yes, sir.
Q Now, do you find any mistakes in Dr. Baker's statement there? A I could not say all of ther was correct or not, part of it is correct.
Q What part is correct? A Why about knowing the family over there.
Q Who is Buck Dawson? A My brother.
Q What is his name? A We always called him Buck, it is Elbert, E. Dawson.
Q Who went with you the first time you went up to make application for citizenship do you remember? A With my brother.
Q The first time? A I met my brother in Texas.
Q Which one? A E. Dawson.
Q That is Elbert or Buck? A Yes, sir.
Q You were living in Arkansas? A Yes, sir.
Q And he was living in Texas? A Yes, sir, and another one of little brothers, Dr. Dawson now.
Q Dr. Dawson now? A Yes, sir.
Q What is his name? A James.
Q And you three went there? A Yes, sir.

Mr. McKennon: Applicants by their counsel object to all the statement of this witness relating to the testimony introduced before the Cherokee Citizenship Commission, and the history of the family as detailed by him, because the same is incompetent and irrelevant, and cannot be used for the purpose of impeaching the integrity of the judgment of said Commission, or either of the Commissioners in admitting members of the Dawson Family.

Commission: The objection of the Attorney for the applicants to the testimony above will be noted. The same will be filed and noted for what it is worth.

(Attorney for applicants waives examination.)

C. H. TAYLOR, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name? A G. H. Taylor.
Q Where do you reside, Mr. Taylor? A Near Coffeyville.
Q Were you an attorney before various citizenship Courts along in '81 to '82 in the Cherokee Nation at Tahlequah? A Yes, sir.
Q Were you attorney for F. M. Dawson commonly known as Bud Dawson? A Yes, sir.
Q Were you present at the taking of testimony in that case? A No, sir; I wasn't present.
Q Do you know who composed the court that decided the case at that time? A Yes, sir.
Q Who were they? A Tom Tehee and Alex Wolfe and Tommy Thompson.
Q Do you know whether or not they were all there when the case was decided? A No, sir, there were only two of them present.
Q Which two? A Tehee and Wolfe.
Q Who was the Clerk of the Court at that time? A Mr. Duncan, D. W. C. Duncan.
Q Do you know what witnesses were used in the case of Bud Dawson? A No, sir; now I was the attorney in the case and the evidence had already been filed before the Court.
Q When were you made attorney? A I was only called in as an attorney at the— Well, Mr. Duncan came down there, and Mr. Bryant had the case and several other attorneys had the case and he employed me.
Q Did you read the evidence in this case? A No, sir.
Q Did you deliver any money? A Now, I was the attorney in the case and I don't think it would be right for me to make any statement.
Q Now, you have claimed your privilege, I ask that you answer the question? Did Dawson ever send you any money with the direction to pay it to either member of the Court or the Clerk of the Court, D. W. C. Duncan, and if so state the amount? A I had a heap of trouble over this matter.-

Commission: Just answer the question, Mr. Taylor.

A Being the attorney I don't believe it is right for me to answer that question.

Commission: Do you refuse to answer? A Yes, sir.

Q Did the matter to which you object to testifying occur prior to the rendition of the decision admitting to citizenship or afterwards? (No response)

COMMISSIONER BRECKINRIDGE:

Q Do you desire to reply to the last question? A I don't think it is right; I was attorney in the case.
Q Mr. Taylor, do you object to answering that question? A Yes, sir.
Q You refuse to answer that question, do you? A I had rather not answer it.

Q Either answer it or say you won't answer it? A I had rather not answer it.
Q Mr. Taylor, you have answered a number of questions down to this point, but it is at this point that you prefer to plead your privileges, as an attorney, do you? A Yes, sir.

Com'r Breckinridge: The power in regard to these matters is lodged in the United States. The Court is clothed with special power with reference to matters which arise through this Commission. Of course the Commission desires and the Government needs for the making of a correct roll the fullest information possible, but it is subject to the limitations of law, and it is not for this Commission to decide of the law in a matter of this character with any authority as I understand it at this time, but to report the matter to the United States Court and let the Court pass judgment.

Under Section 21 of the Cirtis law as it is commonly called Act of June 281898, the members of the Commission shall in performing all duties required of them by law, have authority to administer oaths, examine witnesses and send for papers and persons, and the court is clothed with authority to enforce obedience. The law having enumerated certain powers goes on to say so far as all others are concerned to enable said Commission to make rolls as therein required, and to punish anyone who may in any manner or by any means obstruct said work. Now, the Commission will report the facts to the United States Court and let the Court decide whether or not you are within your lawful privilege. It seems that you refuse to answer questions, or at least one question, which tends to establish as to whether or not you are claiming what what is commonly considered a matter of privilege--according to an authority referred to by an attorney, but the enforcement of an answer seems clearly to be a matter for the Court to deal with.

Q Now, Mr. Taylor, in regard to the last question asked you by Mr. Hutchings, one of the Counsel for the Cherokee Nation, I direct that you make answer, and if you refuse I shall report the matter to the United States Court; do you refuse? A Yes, sir.
Q Now, you have read to you, Mr. Taylor, the first of the two questions propounded to you by Mr. Hutchings, and which you declined at the time to make answer; viz: as to whether Mr. Dawson sent you money to pay to the Court or to any officials of the Court, it seems to come to the question as to whether there was any collusion between you and Mr. Dawson and any member of the Court; now, I understand that you refuse to answer that question upon the grounds that you were Mr. Dawson's attorney? A Yes, sir.
Q Now, I require that you answer that question, do you refuse?
A Yes, sir.
Q I shall also report that refusal to the United States Court as it seems to come under the provision of law, relating to conspiracy between you and Mr. Dawson which apparently considered a privilege matter, and you base your refusal now, not upon the ground that you are incriminating yourself, but that you were counsel for Mr. Dawson. I will report the matter to the Court and you will be informed at the time of any proceedings in the matter I caution you not to talk with Mr. Dawson or any of the applicants in this case.

Mr. McKennon: Applicants do not object and have not objected to the witness answering on account of his privilege as an attorney or for any other cause whatever, they only want to object to the incompetence and irrelevancy of the testimony, with the privilege of cross-examining upon any testimony given by the witness.

COM'R BRECKINRIDGE:
Q You still refuse having the consent of the attorneys in the case to make answer? A I will just ask your Honor to let the matter go over until morning.

Commissioner Breckinridge: It will rest until in the morning at its present status; it is after business hours now.

As for the objection made by Captain McKennon, Counsel for the applicant, it will be taken into consideration, but will not be granted at the present.

(The Commission adjourns until 1:30 P. M. to-morrow afternoon, March 13, 1902.)

Supl.-C. D. #324.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., March 18, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of FRANCIS M. DAWSON ET AL., as citizens of the Cherokee Nation:

Appearances:
Mr. A. S. McKennon, of Counsel for applicants.
Mr. W. T. Hutchings, of Counsel for Cherokee Nation.

SAMUEL H. BENGE, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name? A Samuel H. Benge.
Q Where do you reside? A Fort Gibson.
Q How old are you? A I am 70 years old, going in 71.
Q Are you a citizen of the Cherokee Nation? A Yes, sir; Cherokee by blood.
Q State what official position you have held in the Cherokee Nation and what your general connection with the Nation officially in the last 40 years? A Well, I had several: I have been Sheriff, Councilman, Senator, Delegate to Washington; had a hand in making the treaty of 1866, I am the only one living that signed that treaty; President of the National Council of different tribes of Indians.
Q Were you acquainted with F. M. Dawson, commonly called Bud Dawson? A Yes, sir; I knew him.
Q State you connection with and what you know about his citizenship case before what is known as the Thomas Tehee Citizenship Court?
A Mr. Dawson come down, I was living down below here, he come and employed me to tend to his case and we went to Tahlequah, I believe if I ain't mistaken in 1881 and filed his case there; we went several times and continued his case on for the want of evidence, and finally while we was up there we run across one old darkey by the name of Tosh Rogers; we got his testimony and after we got that testimony we concluded that it was sufficient to go into the trial with. Tosh lived here at Fort Gibson, he was a horse trainer down here and stayed here; he claimed that he knew the Rogers and belonged to one of them and after that we thought we had sufficient evidence we submitted our case to the Court for trial, and the Court went to work and rendered a decision against Mr. Dawson.
I told Mr. Dawson right there that "our cake is dough", just made that remark, and he just made the remark "never mind", and next morning they taken up his case again and they rendered a decision in his favor. I filed no motion nor any evidence at all whatever; I give the case up right there and the decision was then given in his favor, and on our way back from Tahlequah, why we got to talking about the case and I told him: "it was a pretty hard blow when they rendered that decision against us." He said: "yes, but Duncan was the man to reach", but he reached him with five hundred dollars.
Q What position did Duncan occupy? A He was Clerk of the Court.
Q Duncan an educated man or-? Yes, sir; he was an educated man.
Q Who were the members of the Court? A Tom Tehee, Alex Wolfe and Tom Thompson.
Q How many of these could speak English at all? A One.
Q Which one? A Thompson.
Q Who was the Attorney that represented the Nation in those cases?
A Thy Sanders.

Q What was his given name? A Wilson Sanders; was it Wilson Sanders?
A Wilson Sanders.
Q Was he an educated man, or could speak English well? A No, sir.
Q Did Mr. Dawson say anything about the matters having cost him a good deal of money? A He said it had cost him a right smart.
Q Was any remark made on the way back about the opening up of the case, and if so, what? A He asked me if I thought the case was ever investigated eventially and I told him I didn't know.

MR. McKENNON:

Q Were you ever a witness in the Dawson case, Judge, in any of those investigations that have been made since that time? A I don't know that you might call it a witness; that young man come to me once at Tahlequah, and asked me to help him up there that the case was going against him, him and his mother and all was about knocked out and I intercedad and done what I could there before the Committee. I was not a witness but that is what I don't for him.
Q That was Mr. Graham, wasn't it? A Yes, sir.
Q Have you had conversations with Mr. Graham since that time about it? A Now, I might, I don't recollect, I might have had conversations with him.
Q Well, after the Dawes Commission began taking a census of the Cherokees and when they were about Sallisaw down here, did you have a conversation with him here in Fort Gibson about the matter?
A Now, I just can't tell you; I have seen him on several occasions, but the conversations we might have had I can't state.
Q To refresh your memory I will ask you if he did not tell you that they were making a fight on the Dawson family and he wanted to know of you whether that judgment in favor of Robert Dawson's family was fairly rendered, and did you not then tell him that it was all right, that it was fairly obtained? A Not as I recollect of; all he was; that is as I have stated he talked to me in regard to his mother, himself and probably his brothers and sisters, I don't recollect how many there were, but he told me they were rejected, that is just the words he used.
Q When? A It has been sometime ago.
Q Was in Fort Gibson? A Well, that is I saw him here in Fort Gibson, another I saw him in Tahlequah.
Q Well, did he here in Fort Gibson ask you particularly about the Robert Dawson judgment, as to whether it was fairly obtained or not?
A He said he was basing his claim on the Dawson case, that is the way I do.
Q That is the principal Dawson family? A Yes.
Q When was this other written statement here made, when was this made up work? (referring to affidavit heretofore referred to.)
A Yesterday I reckon.
Q Who came to take this? A Mr. Starr.
Q Who else was present when this was taken? A No, sir.
Q When had you told about this matter, Judge? A No one as I know of.
Q Do you know how it was that they knew that you knew this?
A No, sir.
Q You never made any statement? A Never made any statement that I recollect of except I might have talked with Scales, he and him talked about these cases a good many times; if I ever made a statement it was to Joe Ab Scales.
Q How did Mr. Starr know? A I could not tell you how Mr. Starr knew.

Q He came alone here as a Notary Public? A He came alone here as a Notary Public. All he said when he come, he says "we understand that you know something in regard to these cases", I said " what case," and he went to work and named Shoemake case and Dawson case.
Q And thereupon you made this tatement? A He said he wanted to qualify me.
Q Are you certain Judge that after the rendition of tat judgment Mr. Dawson came back here to Fort Gibson with you?
A Yes, sir; we was together.
Q Let me ask you if it was not a very cold day when he came here and he went over ahead of you and you went over to Tahlequah the next day or two after he left? A My recollection was he and I went together.
Q And returned here together? A Yes, sir.
Q Did he not leave you there and go back direct to Arkansas?
A No, sir, we came here together. If my memory serves me right, I might be mistaken but then I don't believe I am, he came from Webbers Falls up here to my house, that is according to his statement.
Q What amount of fee did they pay you? A I don't know as that is in connection with the case whatever the money they paid me.
Q How didthey pay you? A Paid me the money.
Q Who paid it to you? A Dawson there and that fellow, young fellow paid me some.
Q Mr. Grahar? A Yes.
Q At the same time? A Oh, no, he wanted me to intercede for him at Tahlequah and paid me to do something for him which I did.
Q I will ask you if Mr. W. M. Dawson here did not obtain two copies of the judgment one of which you sent in a letter in which you wrote to his brother living in Texas and that brother in Texas, the one they called Buck, didn't send you $50 that they paid you? A No, if I ever got a let er of Buck whatever you might call him, I don't recollect it and if I ever got a nickel from him I don't recollect it. Old man paid me what money I got from it. I don't know nothing about his brothers; he told me he had an uncle living over i Arkansas, but not living down in Texas, I don't know about it.
Q Where did he pay you the money? A Paid it here at home.
Q Before you went out? A He paid me fifty dollars before we went up and when we went up yonder he paid me fifty dollars more; if you want to know what I got, I got one hundredn dollars.
Q You were acting as his attorney in the case? A Yes, sir.
Q How many judges were there present when the judgment was rendered?
A In his case?
Q Yes, sir. A Well, according to my recollect there was all there, but if they were not all there, Tom Thompson was sick. Tehee and Wolfe.
Q Don't you remember that they were all present? A No, I think they were present though.
Q Who else was present at the ime? A Oh, I could not tell you, there were several people in the house; could not tell you at all.
Q Were there several in the house the evening before the judgment was rendered against them as you say? A Yes, there were several in the house.
Q And several in the house when the judgment was rendered the next day? A I don't know how many there was.
Q Do you remember the names of any of them? A Why not exactly, mostly full bloods.
Q How long didyou remain out at Tahlequah on that trip?
A I guess I was there about three days.

Q Tending to this case alone, or did you have other cases? A no, sir.
Q Do you know of your own knowledge that the judges received any money (this question asked at the instance of Mr. Graham present)
A I don't know whether the judges received nay or not.

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I, J. O. Rosson, do hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony had this day in the above case, and that the foregoing is a true and complete transcript of my stenographic notes thereof.

(Signed) J. O. Rosson.

March 18, 1902. Commission convened pursuant to adjournment.

Appearances:
Mr. A. S. McKennon, of counsel for applicants.
Mr. W. T. Hutchings, of Counsel for Cherokee Nation.

C. H. TAYLOR takes the stand and continues his testimony.
BY MR. HUTCHINGS:

Q Mr. Taylor, you said you would consider the matter yesterday and let us know whether you would answer those questions today; have you decided what you would do about the matter? A Well, it is like this, of course I don't want to be held as in contempt of the Court.
Q You would be held in contempt and the other Court would make you answer? A That being the case of course I would make a statement.
Q Are you acquainted with D. W. C. Duncan, the Clerk of what is known as the Tehee Citizenship Commission Court? A Yes, sir.
Q Did you ever have any conversation with him about letting him know of the different character of cases that would come up before the Court that you knew of, whether they were good ones or bad ones? A No, the only thi g that ever come up in that respect; he asked me if whatever large cases that would come up befor the Court to let him know.
Q Did you have any talk with him about the Dawson case during the progress of its trial or before and ever introduced Mr. F. M. Dawson to him, or carry him to him? A I spoke to him when Mr. Dawson came to Tahlequah to see about his case, and he said that he would take the papers over to his room, the Dawson papers.
Q Did you see him again that night? A Yes, sir; after supper I went down to his room.
Q Did he ask you about the Dawsons or Dawson case? A He asked me where Dawson was.
Q Which Dawson are you referring to now, F. M. Dawson, known as Bud Dawson? A Bud Dawson.
Q Well, what didyou reply to him? A I told him that I thought he had gone to church.
Q Did you find Dawson after church? A Yes, sir, he told me to come and bring Dawson down and I did so; Dawson was in church.
Q You carried Dawson to him? A Yes, sir.

Q Did you remain during the conversation? A Only a minute.
Q What was said if naything while you were present? A Mr. Duncan spoke to Mr. Dawson and says "there is a hitch in your evidence."
Q Go ahead and state what else he said? A He said "if that was straightened out it would be all right," and I turned and went away, I says, "gentlemen, I will go home."
Q Did you know of their having any other conversation or communication after that? A No, sir.
Q You left them there together yourself? A Yes, sir.
Q Did Mr. Dawson give you any directions the next morning about submitting the case? A Yes, sir, he asked me to call it up the case.
Q The next morning? A Yes, sir.
Q Had there been any additional evidence offered? A No, sir; there was not additional testimony offered.
Q He told you the next morning to call up the case? A Yes, sir.
Q Was it called up and submitted the next morning? A Yes, sir.
Q Now, how many of the members of the Court were there present that morning? A There were only two, two full-blood Indians.
Q Could they speak english at all? A Tehee could talk a little, talk some.
Q Did that Court have open sessions all the time or what is called executive sessions sometimes? A Well, I don't remember about that; it was generally when the case was submitted the attorneys would go out. The parties would go out and they would determine the case.
Q Well, did they go out into that sort of executive session the next morning on the Dawson case? A Well, we went out when the case was submitted.
Q And was the decision rendered that morning in their favor?
A Yes, sir.
Q Who notified you of the decision of the Court? A Why, Mr. Dawson.
Q Do you remember whether he went out with you or was in there during the consideration of the case? A I think he went out with me.
Q Did you at any time thereafter receive any money, checks or other evidence money from Mr. Dawson with direction to turn it in part over to D. W. C. Duncan, the Clerk of that Court? A Mr. Dawson gave me 20 dollars and said he would send the balance in a short time, said he would send some more money in a short time.
Q Well, did he send any money afterwards? A Yes, sir, in the course of ten days or two weeks he send a hundred dollar check, draft.
Q What did he direct you to do with it? A He directed me to give D. W. C. Duncan half of it.
Q Did you give him half of it? A Yes, sir.
Q Did he send you any at any other time after that? A Well, in the course of a couple of weeks he sent me a hundred dollars more.
Q Did he direct you to turn any of that and if so how much, to D. W. C. Duncan? A He told me to give him half of it,
Q Did you give him half of it? A I did, sir.
Q Do you remember whether on Dr. Arthur Baker was the principal witness in behalf of the Dawson case? A No, sir, I don't because I never had any connection with the case, but I heard that he was a witness in the case.
Q No argument was made when you submitted the case? A No, sir.
Q Just submitted it on the testimony? A Yes, sir.

MR. McKENNON:

Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q Were you born and reared in the Cherokee Nation? A No, sir; I was born in the old Nation.

Q When did you come to the Cherokee Nation? A Come here in 1355.
Q How long have you been practicing law in the Cherokee Nation?
A I think since '68.
Q You have done a great deal of citizenship business haven't you?
A Yes, sir.
Q You were in the United States Court at Fort Smith on charges in regard to the citizenship business? A Yes, sir.
Q Were you convicted there? A Yes, sir; I was convicted there on this very case.
Q And served a term of what length? A I was sent to the jail hospital for sixty days and I stayed in about 38 or 39 days, and I was released.
Q When was that? A I don't remember how long ago it has been.
Q You say it was in regard to this case? A Yes, sir; this case was the bone of contention; Clem Rogers and the Chief, they are the ones that had me arrested, carried to Fort Smith.
Q Well, now, were you charged with an offense against the law in this case, or was it in regard to some other case? A Well, it was in regard to using the mail for fraudulent purposes.
Q Sending out propositions and obtaining case for citizenship for people [illegible] Cherokee Nation? A No, sir, it was for answering correspon[illegible].
Q Not relating to this case at all? A Well, this was the main charge, Clem Rogers went before the Court there and stated that I had got in at least three hundred Dawsons, that they were white people and not entitled to citizenship and that was the main trouble.
Q Well, now, was the charge based upon that or was it based upon your letters you sent out to other people? A That was the charge for using the mail for fraudulent purposes.
Q The use of the mails for fraudulent purposes not in connection of this case was it? A Not particular of this case.
Q Then the trouble you had was the prejudice of Clem Rogers and others caused by your connection with the Dawson case; that is what you mean to say? A Yes, sir.
Q Why did you say because you were charged with an offense based upon this case? A Well, the prejudice grew out of this case.
Q Now, then, you had full conversation with the representatives of the Cherokee Nation as to your testimony in this case, did you not before you came on the stand? A Yes, sir.
Q You had told them of these particulars before you came on the witness stand did you not? A Yes, sir.
Q Yet when you came on the stand you assumed to have conscientious scruples as to answering as to matters which occured between you and your client, Bud Dawson, in relation to this matter and declined to answer clairing your privilege as an attorney did you not? A Yes, sir; I didn't want to make a statement at all in the matter.
Q You had voluntarily made a statement to the representatives of the Cherokee Nation? A Yes, sir; I had stated to Mr. Hastings; he summoned me and I come down here and I didn't want to make a statement to him but he insisted.
Q He had no power to compel you to make a statement? A No, sir.
Q You could then make it very freely and your conscience did not hurt you, but when you came on the stand you were very conscientious about it? A I didn't want to make a statement at all unless I I would be put in jail here if I didn't.
Q But you had armed them with information by which they could ask you these questions when you came on the stand? A I had told Mr. Hastings.

Q You knew when you gave him that information that you would be brought on the stand as a witness, did you not, by reason of that?
A No; I didn't know that I would be compelled to make a statement in the matter, a sworn statement.
Q You thought you would not be compelled to answer?
A I didn't think the law would compel me to make a statement.
Q Why then did you make a statement to him about it? A Oh, he was asking me about it, and I told him that I didn't want to make a statement, and I didn't for quite a while after I came down here.
Q When the enrollment division of the Dawes Commission was in Tahlequah, in the winter of 1900, did you not there meet F. M. Dawson and did you not then and there say to him "I told Shoemake I would be for him if he would employ me in his case and if he didn't I would be against him, and the same to you?" A No, sir; I said to him this; I says that if there is not something done that I will likely be summoned against you and Mr Shoemake both.
Q What did you mean by that? A Well, I just meant this, I just left the matter with him to say what he wanted to do in the matter; I only spoke a word or two about it. I was going out of town just as he came in.
Q When you told him if something was not done you would be summoned as a witness against him; what did you mean by that? A Well, I just meant that the chances were that the Nation would summon me against him.
Q What did you mean by the expression "if there was not something done" that you would be summoned as a witness?
A Well, I meant this, if I was re-employed in the matter if he was to have a case and I was re-employed I would not be required.

Q You could be required to make a statement as to declarations made to you by your client to you in one instance, but if a little more money was put up you could not be required to make a statement; is that what you mean? A I didn't think I could be forced to make a statement at all in the matter.
Q Why didyou make that expression to him "if something wasn't done you might be summoned as a witness" if you believed you could not be made to make a statement? A I meant if I was employed in the case.
Q If he would put up you would not testify? A That they could not force me to testify.
Q About the month of February, 1901, in the town of Wagoner, Indian Territory, did you not send your son to get Graham to come to the hotel at night, and did you not then and there say to Gid Graham; "you people are on the doubtful list and if you will give me $500. I will make it all right and see that you are enrolled and if you don't I will see that you don't get on"? A No, sir; I got a letter from Gid Graham in which he asked me to certify that the case was all right and after I met him I told him that I could not do it, that the case was cracked he then said to me, he says, "I will give you a hundred dollars", he says "will you take a hundred dollars," I said "no, sir." I didn't make any bid, that is I dddn't set no price with him.
Q You did not say to him then what I have embraced in that question there? A No, sir.
Q You did have a conversation with him about that time and at that place, did you not? A Yes, sir.
Q You say you didn't make any bid or set any price? A No, sir; he offered me a hundred dollars.
Q Why did you send for him to come to the hotel? A In answer to his letter.

A Did you not on yesterday morning on the street in Muskogee, Indian Territory, in a conversation with W. H. Shoemake say to him; "You have made a great mistake in not keeping in your employment and we have the Dawsons and it will go hard with you and you will rued it"? No, sir; I says to Mr. Shoemake, I says: "Who have you employed in your case," and he says "Judge Thomas and Mr. Owen." I said "It right have been a advantage to you if you had retained me in your matter;" Well, he says "there was nothing wrong in my case" and I says "no, there is nothing wrong on earth in your case that I know of." He said all he wanted was justice and I said "I don't know a thing on earth against you," and I says "there is not a thing on earth wrong in your case as I know it came up fairly and squarely and decided in your favor."

Q You said nothing to him about the Dawson case? A Yes, I said to him "it might have been well if the Dawsons had retained me in their case." I said "I am summoned on the part of the Nation and I don't want to make a statement and I want if I can possible avoid it."

Q Was that before or after you talked with Mr. Hastings, the representative of the Nation? A It was afterwards.

Q You meant by that if you had refused to answer you would have gone to jail? A No, sir; if they had employed me before hand I meant not now.

Q You mean that if they had employed you before hand you would not have given this information to Mr. Hastings? A I would not be required, being the attorney.

Q Were you required to give him the information; did you know that you had to give him any information? A Who do you mean.

Q Mr. Hastings. A I did refuse him and he insisted.

Q Well, he no authority to compel you to do it? A No, sir; I don't know whether he did or not.

Q As a lawyer you knew that he did not have authority to compel you to make a statement to him? A I told him that I was an attorney in the case and I didn't want to make any statement at all.

Q Why did you do it? A Well, he intimated to me it would go any further. He said to me "I will not make this matter — I will not use it;" that is, what I stated to him was part in confidence.

Q And he pledged you his word that it would not be used? A Well, told him I could make a statement in confidence, and that I didn't want to make a statement before the Court.

Q Well, what did he reply, as you said just now? A Oh, he says make the statement and then I told him—I regretted very much to do it, and I regret very much to make a statement here. I tried to avoid it yesterday.

Q You stated just now that he said it would not be used; did he say that or not? A Well, something to that amount; oh, he says it went make any difference or something to that effect.

Q Now, don't you know that Mr. Hastings did not intimate to you that the statement he was asking you to make would not be used? A Well, I didn't think that I could be forced to make a qualified statement before the Court here, because I thought my license would protect me in that matter.

Q Yet it did not protect you or prevent you from making a statement to the attorneys for the Nation? A No, sir.

Q Now, in this conversation with Shoemake to which I before referred did you not ask him to again employ you and tell him if he would you would make it all right for him? A No, sir; I didn't say that; no, I said if he had employed me in the matter "maybe it would have been better for you." Now, he offered me when I was down here last week, he offered me five dollars to go down and talk with his lawyers on the matter, I didn't go I was busy.

Q That was not your price? A No, no, I had nothing to say in his case that would be to his advantage; I knew nothing against him.
Q Now, then, you say that your were present on the morning that the judgment was rendered in favor of the Dawsons? A I was not in the Court house.
Q You were present in Tahlequah? A Yes, sir.
Q How long had you been at Tahlequah? A I was living there at that time.
Q When were you first employed by them? A By Dawsons?
Q Yes, sir. A The evening before the case was tried.
Q You say that after the judgment was rendered Dawson handed you $20? A Yes, sir.
Q And told you to hand to Duncan? A No, sir.
Q What was your statement? A That he paid me $20 and says "I will send you some more in a short time, week or so.
Q And then he sent you $100? A Yes, sir.
Q And wrote you to give D. W. C. Duncan $50 of it? A Yes, sir.
Q And then sent you another $100 and told you to give him half of it? A Yes, sir.
Q How much did they pay you? A Well, that was the agreement, was that he would pay me $50 a family.
Q How much did he pay you? A I think there was $250; now I am not sure about the $50, but it appears to me like there was a $50 sent, and Mr. Duncan asked me, as well as I remember, says "have you got a letter from Dawson," I told him "yes, sir." It was either that or the $100, and he says "I would like to have some money", and I went to Stapler's and got it changed--- I won't be sure about it being $50 or $100---I went to Stapler's and got him to cash the check and give him his part of it.
Q How much did they pay you for your services? A That is all I got.
Q How much? A I think it was $100, $120.
Q What did you do for them? A Didn't do a thing only called up the case and submitted it; never read the evidence.
Q Submitted it without remarks? A Yes, sir.
Q And for that you say they paid you $120? A Yes, sir; $120.
Q Was Houston Benge present when that was done? A No, sir; I don't think he was.
Q Did you see him then at that time in Tahlequah? A I don't remember.
Q Were you associated with him in any manner in connection with the case? A No, sir.
Q You had a great deal of business of that character, have you before the Courts? A Yes, sir.
Q Were you paid like fees in other cases for like services? A Yes, sir.
Q In many of them? A Yes, sir, good many.
Q All like cases? A Oh, citizenship cases.
Q When was it you were in jail at Fort Smith? A I don't remember; Mr. Mellette can remember, he was there, he was my attorney.
Q Was it about 1883? A It was somewhere along there, along in 1890 somewhere.
Q That has been your principal business as a lawyer, has it not? a Yes, sir.
Q You have never practiced much in any other way have you? A Very little.
Q Were you in the habit of working your cases through in the same manner in which you state you worked this through? A No, sir.

Q This was an exception was it? A I never worked this case through. I simply called the case up by request of Mr. Dawson. I read the evidence: don't know what proof there was in it; he just asked me to call the case up.
Q And he agreed to pay you $50 a family for doing that? A Yes, sir.
Q Was that what you required of him? A That is what he agreed to pay. I says "what will you give?" He says "I will give you $50 a family.

MR. HUTCHINGS:

Q At the same time that the attorney for the Nation was talking to you about the Dawson case he also made inquiries about the Shoemake case didn't he? A Yes, sir.
Q And you told him at that time before you knew anything about whether you would be made or compelled to testify that so far as you knew there was nothing you knew detrimental to the Shoemake case? A Yes, sir: that is what I said.
Q You told him at the same time that you not only expected to claim you privilege as an attorney in the case, but that you told him, Mr. Hastings, with the full belief that the Court would sustain your position? A Yes, sir.

Mr. McKennon: That is very leading.

Q Now, did you think that the re-employment, being the attorney in the pending case would strenthen your position or weaken it, when you spoke to Mr. Dawson? A What I thought in the matter was before ever I would be summoned in the matter, a long time ago, that if I had been employed in the matter of course my position would have been such that I would not have been required or could not have been forced.
Q Did you think under those circumstances that Mr. Hastings would approach you about the subject? A No, sir: I don't think I would be forced to, having license to practice law.
Q Did Mr. Hastings tell you at the time that he was going to put you on the stand? A Yes, sir.
Q And let the Court decide? A Yes, sir.

MR. McKENNON:

Q Now, have you a license to practice in the United States Courts?
A Yes, sir.
Q In the Territory? A Yes, sir.
Q And also in the Indian Courts? A Yes, sir: do you want to see them?

JAMES W. LEWIS, being duly sworn, testified as follows on part of the Cherokee Nation:

MR. HUTCHINGS:

Q State your anem please? A J. W. Lewis.
Q James W. Lewis? A Yes, sir.
Q Where is your postoffice, Mr. Lewis? A Afton.
Q How old are you? A 73 years old.
Q What is your business ? A I work at the tin business and gun work.
Q Do you know one James Dawson, the brother of F. M. Dawson and the other Dawsons? A I know old man James Dawson.
Q That is the one I mean, old man James Dawson? A Yes, sir: I know him.
Q How long have you known him? A Well, some four or five years, I guess.
Q How long? A Four or five years I think.

Q When did you come to the country? A I have been in the country 70 odd years.
Q Well, when did he come to the country, do you know? A Along about somewheres in eighty if I recollect right, might have been later than that.
Q How did you happen to get acquainted with? A He lived right close by me and I built a house for him.
Q Did you have any conversation with him at the time you built that house? A Yes, several different times.
Q About how he became a citizen of the Cherokee Nation, about the circumstances? A Yes, sir.
Q Did he make any statement to you about the use of money in getting his citizenship, and if so, state what he said?
A Well, he told me that it cost him $700 to get his rights.
Q Didn't tell you to whom he paid it? A No, he didn't and I didn't ask any questions.

MR. McKENNON:

Q How old was he at that time, do you know? A I do not know exactly, must have been somewheres near about 70 years old, he might have been older than that, I don't know.
Q He was a very old and feeble man? A Yes, he was old and feeble.
Q He seldom ever got out away from his house? A No, sir, only short distance.
Q When you first know him he was that kind of man? A Yes, sir.

J. L. CLINKENBEARD, being duly sworn, testified as follows on part of the Cherokee Nation:

MR. HUTCHINGS:

Q State your name? A J. L. Clinkenbeard.
Q What is your post office address? A Vinita.
Q How old are you? A 56.
Q Were you ever an applicant for citizenship before the Tahlequah citizenship Court in Tahlequah? A Yes, sir.
Q About what time was that? A September '81, I think.
Q Did you meet there about that time, one Elbert or Buck Dawson?
A Yes, sir.
Q How did you happen to meet him? A He and I stopped at the same place, man's by the name of Sharbow.
Q You and he stopped there, did you, board there? A Yes, sir.
Q Well, did you have any talk about citizenship cases, yours and his? A
A Yes, sir.
Q Where did he state that he was from? A Texas.
Q Well, state what you can remember of the conversation between you from time to time about citizenship in the Cherokee Nation?
A Well, we were there on the same business and we talked about it at different times, and in talking about the evidence we had there I, of course, told him how many witness I had and what I could prove and so on, and he said that he didn't have but one witness, Dr. Bayer from Arkansas, a man that was 85 or 90 years old, he said, and he hadn't come and said he was to have met him there, but he hadn't come.
Q Well, what did he say about the doctor's knowing anything?
A Well, he said he was 85 or 90 years old and didn't know straight up.
Q Well, did he say anything about giving him whisky?
A Well, he said he could give him four drinks of Arkansas whiskey and he would swear that black was white.

Q Did he say anything about what money would do in Texas or Indian Territory? A Well, in talking about the evidence, he said that money was what made the Lord go down in Texas and he said "I come to get the law of the land" and he says "I found out it goes here," or words to that effect.
Q Did he say what he had to spend on the question? A Well, he said that he could stand a thousand dollars on it and not be hurt very much; finally he said he could stand more than that.
Q What did he tell you what he thought about the necessity of witnesses anyhow? A Well, I don't know as he said as to that, but I understood from what he said that he thought money would beat witnesses.
Q Well, where did he go from there? A He and I left there together; he came to Muskogee by way of Fort Gibson and there we parted.
Q Did you ever see him after that? A I saw him about two years or something like that afterwards.
Q Where? A Vinita.
Q Did you refer to the citizenship matter? A I asked him how he came out and he said all right.
Q Was he deformed in any way this man? A He had a crippled hand or stiff finger; I don't remember just what it was now.

MR. McKENNON:

Q Your first conversation with him was in '21 was it? A Yes, sir.
Q What time in '21? A September.
Q You were then an applicant for citizenship? A Yes, sir.
Q Were you admitted? A No, sir.
Q You are still an applicant? A No, sir.
Q You are still working to get in as a citizen of the Cherokee Nation? A No, sir; haven't quit it entirely.
Q What business are you in now? A I am running a dairy in Vinita.
Q When did you make these statements now to the representative of the Cherokee Nation? A Well, sir, I haven't; I saw Mr. Hastings I believe here last Saturday the first time.
Q How did they ever know that you had had these conversations with Mr. Dawson? A I don't know.
Q You don't know how they found that out? A No, sir.
Q You say you saw Mr. Hastings here last Saturday? A Yes, sir.
Q How, did you approach him or did he approach you? A He approached me.
Q You know why? A No, sir; I suppose somebody I have told someone at some time about this, I don't know when or who. I don't remember of having talked to anyone about it. I have saw Mr. Hastings for years.
Q Now, you say—how was that expression about his giving Dr. Baker three or four drinks of liquor? A He said the old man; he said that Dr. Baker, he was expecting him there and he didn't come, and he said he didn't care where he did or not; he said he was 85 or 90 years old; he said he didn't know straight up; said he could give him three or four drinks of Arkansas whiskey and he would not know black or white.
Q Now, he said that did he? A Yes, sir.
Q You are just as positive of that as you are of any other statement he made are you? A Yes, sir.
Q You say you next saw Dawson at Vinita? A Yes, sir.
Q How long afterwards was that? A About two years, I think something near that.
Q Did he move to the Territory? A Yes, sir; he lived at Vinita at one time.

Q You speak about having a dairy business there at Vinita, to what extent? A I am only milking about four cows now, I sent the others to the country.
Q Do you run a dairy wagon there? A No, sir.
Q You serve on the jury a good deal? A I have been serving on the Petit jury there this winter.
Q Generally? No, sir.
Q Are you a kind of a professional juror? A No, sir: I was on the regular petit jury, I was on the regular panel and served.

C. G. BRAUGHT, being duly sworn, testified as follows on part of the Cherokee Nation:

MR. HUTCHINGS:

Q State your name? A C. G. Braught.
Q What is your age? A 62 29th day of last January.
Q What is your post office? A Fairland.
Q How long have you been living in the neighborhood of Fairland?
A Been living there 19 years.
Q Do you know one Bud Dawson or F. M. Dawson as his name is?
A I do.
Q How long have you known him? A About 13 years.
Q How close do you live from him? A Half a mile of him.
Q Does he still own that place? A I think he does.
Q Were you an applicant for citizenship along about '81 or '2 at Tahlequah? A Yes, sir.
Q Did you have at any time a conversation with Bud Dawson about his and your citizenship cases? A Yes, sir.
Q State what he stated to you of citizenship cases in general and about his own in particular, you can state the time that you had these conversations as near as you can? A Well, I think it was in '83, he told me if I ever got in I would have to put up; he said it cost him $700 to get in; he said he paid one witness three hundred dollars..
Q Did he state the name of that witness? A No, he did not.
Q Who did he say he made arrangements with? A He said he made arrangements with the Court; that is, heads of families to get them in at one hundred dollars apiece.
Q Do you know what time of the year tht was, whether it was in the summer or not? A I think it was in June.
Q Did he make any other statements to you at any other time?
A No, sir, I don't think he has in regards to that matter.
Q You have been living neighbors with him? A Yes, sir.

MR. McKENNON:

Q You say this was about June of '83? A I think it was in June, 1883, I won't be positive whether it was June or not.
Q You were an applicant; were you admitted? A No, sir.
Q Have you been admitted? A No, sir.
Q You are still an applicant? A Yes, sir.
Q Still trying to get in? A Yes, sir.
Q Where was this conversation had? A Had at Bud Dawson's house.
Q What part of the premises? that is, in his residence?
A Yes, sir.
Q In the house? A Yes, sir.
Q Who was present? A There wasn't anybody present; he just built the house and there wasn't anybody there.
Q Was there more than one room? A I won't be positive but I don't think there was but one room, log house.
Q Just one room? A Yes, sir.

Q And in that room he made this statement to you? A Yes, sir.
Q He and you are enemies are you not? A No, I don't think we are enemies.
Q You are not friendly at all? A Friendly part of the time, and part of the time we ain't.
Q Haven't you had considerable trouble about his lands between your farms? A No, sir; we ain't had any trouble.
Q Didn't you have his little boy arrested recently for a difficulty? A Yes, sir.
Q And you say that you are not on bad terms with him?
A Why we speak, have conversation, have right right along all the time.
Q Is it not a fact now that you and he have been all the while at outs? A No, sir.
Q You don't have any unkind feeling towards him? A No, sir.
Q What were your other remarks? A I said no, sir, I didn't have any unkind feeling towards him.

(It being 5 o'clock, the Commission adjourns until 8:30 o'clock to-morrow morning.)

March 19, 1902.
Commission convened pursuant to adjournment.

Appearances:
Mr. A. S. McKennon, of Counsel for Applicants.
Mr. W. T. Hutchings, of Counsel for Cherokee Nation.

C. G. BRAUGH, re-called, further testified:

MR. McKENNON:

Q Mr. Braught, you were a claimant under the Watts family are you not? A Yes, sir.
(witness excused.)

CHARLES D. KENNEY, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name? A Charles D. Kenney.
Q What is your post office? A Dawson now.
Q Are you a citizen of the Cherokee Nation? A Yes, sir; supposed to be.
Q Recognized as such are you? A Yes, sir.
Q How old are you? A There is no family record, my parents died when I was young, I just guess at my age, I am somewheres between 44 and 45 years old.
Q Were you personally acquainted with one Elbert or Buck Dawson?
A I knew Buck Dawson when I saw him.
Q Did you know him in the State of Texas, if so state what time?
A I knew Buck Dawson, knew him and saw him at different dates in Texas.
Q Well, in the year '81 in Clay County, Texas, did you ever see him?
A It was in '81 or 82, I think I know him in both years.
Q Did you ever have any conversation with him in the presence of Bill Smith, Giles Flippin and Joe Pleston about his application for citizenship in the Cherokee Nation? A Mr. Dawson and Flippins were talking in regard to grass down there before we one time and

it was mentioned, I was going up on the strip and Buck Dawson says "he an Indian" and Jiles said "yes, he is an Indian", and "By God," I believe is the way he spoke, "if I was an Indian I would not be punching cattle, I would have stock eating my grass."
Q What did he say about making application? A He said he was going to the Chickasaw Nation and prove up and get him some grass.
Q Who was that? A Buck Dawson.
Q Well, did anybody suggest about his going to the Cherokee Nation?
A Yes, sir, I told him, I says "why don't you go to the Cherokee Nation, why don't you go up home" I believe is the way I spoke it, "up amongst God's people;" and he says "are they all white like you?" and Jiles spoke up and says "majority of them."
Q Well, what did he say to Jiles then? A He says "let's go up Jiles", just in a whole crowd of cow punchers, and Mr. Flippin says "Hell, I am going; brother John is getting ready to go now."
Q Well, then what did he say to you? A He says "Who are your best lawyers up there, Kenney," and I told him "Hooley Bell was counted the brainiest man in our country."
Q Well, do you know whether he claimed to have any Indian blood or what he was claiming in that country, whether white man or Indian?
A No, sir, I could not say what he was; he was generally known down there as Buck Dawson, a citizen of the State of Texas, that is all I know of him.

Mr. McKennon: The applicants object to all of the testimony of this witness because it is wholly incompetent and irrelevant.

Mr. McKennon:
Q Were you born and reared in the Cherokee Nation? A I can't tell you where I was born; I was raised here part of the time and in Rusk County, Texas. B. W. Alberty was my guardian.
Q Were you admitted to citizenship by the Council or Court? A I think both of them passed on me; I can't tell you the date.
Q About what time? A It was sometime in '80 though.
Q What tribunal first? A I don't know; I don't know either when I was admitted, I was re-instated at Council.
Q When? A I think it was in '87 or '88.
Q Haven't you been arrested for crime and charged with crime?
A Well, I didn't know that I was on trial; I have been arrested a hundred times I guess from here to the Rio Grande.
Q For what offense? A For gambling, stealing; if I am on trial I have had lots of them, I have been on the road.
MR. HASTINGS, of Counsel for Cherokee Nation:
Q Were you ever convicted? A No, sir.
Mr. McKennon: Applicant makes further objection to the testimony of this witness on account of his criminal character stated by him.

THOMAS B. BABBART, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name, please? A Thomas B. Babbart.
Q What is your post office? A Melvin.
Q What is your age? A 49.
Q Are you a Cherokee by blood? A Yes, sir.

Q Did you know one James Dawson? A Well, yes; I did; I have seen him time or two.
Q Were you in Tahlequah about the time he had an application before the Spears or Snake Puppy Citizenship Court? A Yes, sir; I was there about the time the case was settled.
Q Did you know Aaron Butler? A Yes, sir.
Q Who was he? A He was a Cherokee Interpreter for the Court.
Q Do you know James Smith? A Yes, sir.
Q Who was he? A He was the Nation's attorney before the Court.
Q Well, did you about that time have a conversation with either Aaron Butler of Jim Smith in company with Mr. James Dawson? A Yes.
Q State the full particulars of it? A About that time this man Dawson and Butler come to me while they were all together, all three of them, and Butler come and called me off to one side, that was down at a colored church, it was after dark, and they called me off there and this man Dawson borrowed some money from me, he said he had to have it that night, his case was going to be submitted the next morning.
Q Well, did he say anything about whether he could get his case submitted if he had some money? A Well, from the language to me and Butler, he wanted this money; Smith had agreed to submit the case without further evidence in the matter.
Q Well, did you let him have the ten dollars? A Yes, sir.
Q Where did they go then? A They walked off up towards town.
Q Did they go together, those three? A Yes, sir.

MR. McKENNON:

Q Was that James Dawson, the leading applicant in that case?
A Yes, best of my recollection that was.
Q How old a man was he? A I don't know; I could not tell you; he looked, I don't know, he might have been--could not tell you just about how old he was.
Q Well, about how old was he, 35, 30 or 40? A Yes, he was older than that, from my judgment I guess he must have been 45 or 50 years old.
Q Is he living or dead? A I don't know.
Q Where have you been living? A I have been living down here near Tahlequah.
Q That was the man's name, Dawson's name? A Jim Dawson I think.
Q You are certain of that? A Yes, sir; I am pretty certain.
Q They came to you with Smith, the Prosecuting Attorney, and Butler, the Interpreter? A Yes, sir.
Q Dawson took you off to one side? A Butler took me to where Dawson was and introduced me to Dawson and vouched for Dawson being all right for the money.
Q When did you first make a statement of this matter to anybody?
A I guess--I don't remember when.
Q How long have you been in Muskogee this time?
A I have been here since, I was summoned here last Friday.
Q Did you ever make any statement to anybody about this before that time? A Yes, I talked to Butler about it.
Q When? A Oh, about, first I remember it has been about two years ago, and Butler was talking to me about it; it was at my house.
Q Were you born a citizen? A Yes, sir.
Q You weren't admitted to citizenship by the Courts or Council?
A No, sir.
Q You have been living in the Cherokee Nation all your life?
A Well, I was born and raised here; ; I haven't been here all the time; I have been out and in.

Q You have never seen that man Dawson since? A If I have I have never known it, but I seen him the next day.
Q You saw him and took a good look at him, and know about what kind of man he was? I saw him around there about several times.
Q You think he was about 35 or 40 years old? A That would be my guess at it, my recollection.

Mr. McKennon: Applicants object to the testimony of this witness, all of it, because it is wholly incompetent and irrelevant.

DELIA A. BREWER, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your full name? A My husband's name was O. P. Brewer, but generally I sign my name Mrs. D. A. Brewer.
Q What was your full maiden name? A Delia A. Vann; well it was really Delilah but I never was called by that name, it was De altogether in my young days.
Q What was your father's name? A His name was Joseph Vann.
Q Was he called by any nicknames and if so how many, and what?
A None but the Cherokees, the full-bloods called him Joe Aney.
Q What does that name mean when you talk English? A Rich Joe.
Q Did any of them call him Big Joe Vann? A I don't know; he was a large man; larger than the other Joe Vann.
Q There was another Joe Vann? A Yes, sir.
Q Did your father have any sisters and brothers? A He had quite a number of sisters.
Q Did he have a half sister? A Had two half brothers.
Q Did he have a half sister? A Had several half sisters.
Q Who did they marry? A Different persons; I knew the names of all of them but I have a bad memory, but I know that there was one, a Mrs. Ibbie Wolfe, and Mrs. Lamer, she was first a Mrs. Nicholson and she became a Mrs. Lamer and lived in Alabama and never come to this country, but she has grandchildren in this country.
Q Well, did any of your father's sisters or half sisters ever marry a Rogers? A No, sir.
Q Never had any Rogers kin-folks? A No, sir, I certainly would have heard of them through my family, there was a great many of the kin-folks I never saw, but I heard of them.
Q The Dawson case was talked of here for many years, they claiming kin?
A I never knew until I understood they claimed to be kin to the Vanns, and I flatter myself that my family was prominent enough that they never claimed kin.
Q They never claimed kin at all? A No, sir.
Q Did your father ever had a sister or half sister by the name of Annie, Anna or Alsey? A No, sir.

Mr. McKennon: Applicants object to all the testimony of this witness because it is incompetent and irrelevant.

SAMUEL TOLLIVER DAWSON, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name? A Samuel Tolliver Dawson.

Q What relationare you to the Dawsons? A Well, I am not acquainted with none of these Dawsons, I guess I am cousin, that is what he told me.
Q Who was your father? A Samuel Riley Dawson.
Q What did you say your father's name was? A Mile Dawson.
Q Do you know what his full name was? A Samuel Riley Dawson.
Q What children had your father? A Way, he has got, you mean his first children or his whole family?
Q I want all of his children? A I don't know, I will have to count a while on them, there was nine or ten of them.
Q Just one or two of them I care for; is Mrs. Lewis your sister?
A Yes, sir.
Q Your full sister? A Yes, sir.
Q Was she a daughter of S. R. Dawson, Jr.? A Yes, sir.
Q Now who were the parents of your father, , Samuel Dawson?
A Why Sam Dawson was his father.
Q Sam Dawson was his father? A Yes, sir.
Q What was Sam Dawson's wife, if you know their family history, what your father said or what your grandfather said? A I have heard that she was a Pruitt, my father said; of course I don't know.
Q What was her given name? A Annie.
Q Did you ever see your grandfather, Samuel Dawson? A Yes, sir.
Q Saw him? A Yes, sir.
Q Do you know about how old he was when he died? A He was somewhere up about 90.
Q About how old were you when your grandfather died? A I don't remember exactly how old I was, I must have been somewhere near 12 years old when my grandfather died.
Q Was your father his youngest child? A Yes, sir.
Q Do you know about when your father was born? A Well, no, I don't, he died in '90 and he was 67 years old.
Q He died in about '90 and was about 67 years old when he died?
A Yes, sir.
Q And he was the youngest child? A Yes, sir.
Q Now, do you know how many children your grandfather had , that is brothers and sisters of your father? A I heard him say seven.
Q Well, did you ever hear your father or grandfather speak of whether or not your grandmother was a white woman or an Indian?
A Well, I heard my father speak about it, I don't know that I ever heard my grandmother say anything about it.
Q Well, what did he say about it? A I have heard him say his mother was not an Indian.
Q Did you fathercome here and apply once for citizenship?
A Yes, sir.
Q Was he admitted? A I think not.
Q Did you hear him make any statements about he ground he expected to get in? A He said his brothers had proved their rights here and if his brothers had any rights he did, but I don't know.
Q Well, in that connection didhe say whether his mother was an Indian or white woman? A Never heard him say that his mother was a white woman in speaking about that, I don't know whether he said anything about that or not; I have heard him say his mother wasn't no Indian.

Mr. McKennon: Applicants object to the testimony of this witness because it is wholly irrelevant and incompetent.

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(Taking of testimony continued by Stenographer M. D. Green.)

I, J. O. Rosson, do hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

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(Continued from testimony taken by Steno. J. O. Rosson.)

March 19th, 1902, at Muskogee, I. T.

Appearances:
Mr. A. S. McKennon and Mr. Melletto, attorneys for the applicants.
Mr. W. T. Hutchings, and Mr. W. W. Hastings, attorneys for the Cherokee Nation.

ELMA BRASHIERS, being first duly sworn, and being examined testified as follows:
BY MR. HUTCHINGS:
Q State your name? A Elma Brashiers.
Q What was your maiden name? A Elma Dawson.
Q What was your father's name? A Samuel Riley Dawson.
Q What was his father's name? A Samuel.
Q What was your grandmother's name? So far as you know from family history? A Her maiden name was Annie Pruett.
Q Then your father, if I understand you, was the son of Samuel Dawson and Annie Dawson, nee Pruett? A Yes, sir.
Q Did your father have a brother named Robert, and a brother named James? A Yes, sir! that is what I was told.
Q And had a sister named Mrs. Petty? A Yes, sir.
Q And another one named Mrs. McGee? A Yes, sir.
Q And another brother named John? A Yes, sir.
Q What relation are you to Mrs. A. S. Lewis? A Sister.
Q Did you ever see your grandfather, Samuel Dawson? A Yes, sir.
Q You have a distinct recollection of him? A I, yes, I can remember him, but I was small.
Q About how old were you you suppose when your grandfather died?
A About 6.
Q Was your father's birth recorded in the family Bible? A Yes, sir.
Q You know whether your grandfather's record of marriages and deaths were recorded in any Bible or not? A I was, but we haven't it.
Q What became of it? A Got burned.
Q Well, about what year do you remember that your father, Samuel Dawson was born? A I believe it was '23.
Q In 1823? A Yes, sir.
Q And how old was he when he died, if you recollect? A He was between 64 and '7.
Q Did you ever hear your father speak of his relations, his father and mother, as to whether they were white people or Indians?
A Yes, sir, they were white people.

Q. You know whether in the family you grandmother was spoken of by the name of Annie, always? A. Yes, sir.

BY MR. McKENNON: Applicants object to the testimony of this witness because it is wholly irrelevant and incompetent.

ALEX S. LEWIS, being first duly sworn and being examined, testified as follows:

BY MR. HUTCHINGS:

Q State your name? A Alex S. Lewis.
Q What is your post-office? A Dawson, Indian Territory.
Q How old are? A 59 years.
Q What was your wife's maiden name? A Elizabeth Parales Dawson.
Q Who was your wife's father and mother? A Her father was Samuel R. Dawson and her mother was the wife of Samuel R. Dawson, did you want her maiden name?
Q Well, if you know the maiden name of your wife's mother, state how you know it? A Well she was called Margarett, Margarett Queen was her maiden name.
Q The maiden name now of your wife's father's mother? A Why the maiden name of my wife's father's mother?
Q Yes, sir? A From what her husband and my father-in-law told me it was Annie Pruett.
Q What was the name of your wife's father's father? A My wife's grandfather on her father's side, Samuel Dawson.
Q And his wife's maiden name was Annie Pruett? A Yes, sir.
Q Did you know the old gentleman, Samuel Dawson, you wife's grandfather? A Yes, sir.
Q Personally? A Yes, sir.
Q What opportunities had you to get acquainted with him? A He lived with his youngest son, my father-in-law, and visited me, my wife and I, after we were married, stayed with us quite a while; I lived near my father-in-law and we visited very often.
Q When did he die? A '74.
Q Have you any particular method of recalling that date? A Well, I was away from the house when he was taken sick, and they sent for my wife and myself, and so when I got home my wife had gone to her father's to see her grandfather, he was sick, and I remember my first wife was a baby at that time.
Q And when was your first child born? A He was born December, '73.
Q You know how old your wife's father was when he died? A Why he was up in 60, but I don't remember his age.
Q Did the old original Samuel Dawson ever tell you his age? A Yes, sir, several times.
Q How old was he at the time of his death? A He was passed 94.
Q Did he ever tell you whether or not his wife Annie Pruett had any sister or brother? A Told me she only had one brother named Bob Pruett.
Q Have any of the members of the family named their children after him? A Make it a little plain, it is a little long; my wife's oldest brother was a particular favorite of his grandfather, and he always took this boy with him everywhere, and he named one of his,- oldest child for this brother-in-law who was a particular favorite of his grandfather; named it for him I understood.
Q Now, what is his name? A Of course I don't know why he named it, but he gave him the name of Robert Pruett, and I understand it was on account of his grandfather thinking so much of Robert Pruett.
Q Did you ever hear the old Samuel Dawson speak of his brother-in-law? A Yes, sir; I have heard him say that he wished he knew what had become of Bob Pruett, he never had heard of him for a long

time; didn't know where he was, or whether he was alive or not.
Q Now, I want the children of Samuel Dawson and Annie Pruett, how many of them did you know, first? A How many did I know personally?
Q Yes, sir? A John James, and Samuel R. These were the only ones of his children that I remember personally.
Q Well, remember what you know of the family, what other children did he have? A Well he had two girls, as I understand the family history, he had two girls, first, and John Dawson was the third child, and the oldest boy was John Dawson.
Q Was John Dawson the oldest boy? A Yes, sir.
Q Which was the oldest girl? What is she known by now? A I think it was Mrs. Petty, nee Bettie Dawson.
Q And John Dawson was the oldest boy? A Yes, sir.
Q And Samuel R. Dawson was the youngest boy? A Yes, sir.
Q You know anything about the time John Dawson was born, have you any way of coming at it, the oldest boy? A Yes, sir, I know what the oldest son and his wife told me.
Q What was that? A They said he was born in 1811.
Q Who was his oldest son? A Toliver H. Dawson; told me his father was born in 1811.
Q Do you remember now whether the old man had occasion to say whether his wife, Annie Pruett was an Indian or white woman, or ever said anything about it? A I know what the old man said that she was, I don't know that I ever heard the question approached in that way, I have heard him speak as to her blood, but it was in a different way that he reached it.
Q What blood did he say she was? A Well he said that she was the daughter of Mrs. Pruett, a white woman; and that her father was Captain John Rogers, a white man who lived with the Cherokee Indians, and traded with them.
Q Did he say who Captain John Rogers afterwards married? A Said he had a wife in the Cherokee Nation.
Q But that Annie Pruett was not her child? A No, sir, she was the child of Mrs. Pruett.
Q A white woman? A Yes, sir, that was the half sister of Bob Pruett.

BY MR. McKENNON:

Applicants object to all of the testimony of this witness, because it is wholly incompetent and irrelevant.

Q Did ever you apply for citizenship here? A Yes, sir; for my wife.
Q When? A My father-in-law made the application, I don't know exactly when it was, I think probably about '86, I couldn't say as to the date.
Q Before the Cherokee authorities? A Yes, sir.
Q Did he file an application before the Dawes Commission in 1896 also? A Him.
Q Yes, sir? A I don't think he did, no sir.
Q Did you? A I did.
Q On account of your wife? A Yes, sir.
Q Did you make affidavit to that application? A No, sir.
Q Who did? A I don't know, don't remember now.
Q You applied for your wife as an Indian by blood didyou not?
A Yes, sir.
Q Are you still an applicant? A No, sir.
Q Is she? A No, sir.
Q She was denied was she? A Yes, sir.
Q Was there an appeal taken from that? A Application was filed if I remember, before the Dawes Commission, and they rejected the case, and then I appealed it to the District Court, and it was rejected there and then I stopped.

Q Have you ever been arrested for any crime? A Yes, sir.
Q What? A Charge of murder.
Q Anything else? A No, sir.
Q Committed on the train? A Yes, sir.
Q In a train robbery? A Yes, sir, in a train robbery.
Q How long did you remain in jail? A Appealed the case to the Supreme Court, and it was reversed and sent back, and I was acquitted on that charge.
Q That all the crime you were ever charged with? A Yes, sir.
Q Haven't you been having some trouble with the Dawson family?
A Well me personally I have no trouble with any of them, there is one of my boys and one of W. A. Dawson's sons-in-law had some trouble.
Q You are not friendly with the Dawson family? A That son-in-law Mr. Wooley, and myself, don't speak, and I don't think his wife speaks to me either.
Q Well you are claiming some sort of lease on the Wooley farm, aren't you? A No, sir, I don't claim any lease on the Wooley farm.

B. W. ALBERTY, being first duly sworn, and being examined, testified as follows:
BY MR. HUTCHINGS:
Q State your name? A B. W. Alberty.
Q What is your post-office? A Tahlequah.
Q What is your present official position in the Cherokee Nation?
A Assissant Executive Secretary of the Cherokee Nation.
Q As such have you charge of the citizenship records and books etc. of the Nation? A Yes, sir.
Q Have you made search recently for the original records in the various cases of the Dawson family before citizenship courts in Council? A Yes, sir.
Q Have you got what records you found with you? A I find what's supposed to be the original papers in the case, all that I could find. (Produces papers and hands to Nation's attorney.)
Q Where did you find these papers? A I found them in the desk in which papers of that character are filed away in the Executive Office at Tahlequah. (Applicant's attorneys examine papers produced by witness.)
BY MR. HUTCHINGS: The Nation here introduces in evidence an envelope marked No. 108, the names on the back of it are Robert, Elbert, Jasper, John, Frances, Marion, Josephine, Joseph, Jane, Mollie, Wilburn, James, Rial Dawson, versus the Cherokee Nation; the envelope and its contents.

BY MR. McKENNON: To the introduction of all of which the applicants object, because it is wholly incompetent and irrelevant.

The envelope above introduced by the Cherokee Nation is indorsed as follows:
"No.108, Rob. Dawson, Elbert Dawson, Jasper Dawson, John Dawson, Francis Marion, Josephine Dawson, Joseph Dawson, Jane Dawson, Molly Dawson, Wilburn Dawson, James Dawson, Real Dawson, vs Cherokee Nation, Petition for Citizenship, filed Sept. 24, 1881. Admitted Jan 11th, 1883, D. W. C. Duncan, Clerk."
In pencil: "Robt Dawson."

The said envelope contains a document as follows:

"Office of Commission on Citizenship,
Cherokee Nation, Tahlequah, January 19th, 1883.

No. 108 Robert Dawson, "et al."
vs.
Cherokee Nation.

Testimony for Claimants.

Witness:

Dr. Baker sworn testified as follows. My name is Arthur Baker I reside at Berrivill, Arkansas, Carroll County, my age is 73 years, I am not a Cherokee, I lived in the Cherokee Nation about three years when I first came to Arkansas I have been acquainted with him since he became a citizen of Carroll County some thirty five years (line drawn through the last three words.) 35 years at my mother's house near Calhoun I became acquainted with the claimants Robt Dawsons grandmother on mother's side, she was frequently at my mother's house; though the Anna Pruit lived in the Nation side. She claimed to be a half sister to Big Joe Vann, also claimed to be half Cherokee; the first time she brought the claimant's mother to my mother's house she the claimant's mother was about grown, when I was a little boy she called her daughter Polly Rogers said Capt. John Rogers who ran a boat up the river was the father of the child; I saw the girl frequently there at my mother's and there at Louis Rosses Store I saw her occasionally until I was 15 or 16 years old and I think then Old Capt John Rogers took her off to school. I saw her no more from the time Old Capt. John Rogers took her off till I saw her here in Arkansas the wife of Old Samuel Dawson. I stayed all night there and she and I had a talk over our old matters, and I asked her when she became acquainted with Dawson and she said at the time she was going to school. And she said after she left school that Dawson followed her home to the Nation and they were there married. I have told that precisely in the words she used.

Capt John Rogers claimed to be one fourth Cherokee, the claimant is the son of Polly Rogers and I know Polly Rogers to be the daughter of Anna Pruet, and I know the claimant to be the son of Polly Dawson Capt Rogers then resided in the Cherokee Country about twelve miles from Calhoun on the Hiawasse River.

Anna Pruet resided in the Cherokee Nation as long as I stayed there the Dawsons when I got acquainted with them Arkansas were recognized where they were as Cherokees, Robt Dawsons children is Buck, John, Marion, and two girls; the children named in the petition I recognize as being the claimants.

Question by Solicitor:
Ques. 1 How many children did Polly Rogers have?
Ans. 1 Five, I think that's all.
Ques. 2 Did you say something about someone being married twice?
Ans. 2 The claimant was married twice.
Ques. 3 Could Anna Pruet speak Cherokee?
Ans. 3 Yes she could speak it well
Ques. 4 Did Polly Rogers speak Cherokee?
Ans. 4 She could when she was young.
Ques. 5 How far dd you live from Anna Pruet?
Ans. 5 Just across the river about 3/4 of a mile.
Ques. 6 Was Calhoun in the Cherokee Nation?
Ans. 6 It was on both sides of the river, part in the Nation andpart out in the state.

Ques. 7 Which Harnage was it went to Texas?
Ans. 7 George went first then John went they were the sons of old man Harnage that lived up here near the line.
Ques. 8 Did the claimant go to Texas?
Ans.8 No the clairant didn't go to Texas.
Ques. 9 What connection was clairant and Polly Rogers?
Ans. 9 The claimant is the son of Polly Rogers Marion here is the grandson of Polly Rogers.
Ques. 10 Where does claimant now live?
Ans. 10 He lives in Carroll County, Arkansas.
Ques. 11 Do you know what relation old Captain John Rogers was to Charlotte Rogers here in Cooweescoowee?
Ans. 11 They claimed kin but what kin I dont know there were two Capt. John Rogers' in the Nation I am speaking of the time then I first came to this 1830 Country about the year 1830.
Ques. 12 Was Anna Pruet the maiden name of Claimant's grandmother
Ans. 12 Yes that was her maiden name the Indians called her Sinee.

his
(signed) Arthur. A. x Baker.
mark

Witness' hand paralyzed is the reason he signs by a mark thus "x". "

The above document is indorsed on back as follows:

"Certified copy of Affidavit, Arthur A. Baker in Dawson case, Robt," Decided by the Tehee Court in 1883. A. Riley Dawsons Step daughter a white woman married a white man, named August Bulaska."

BY MR. HUTCHINGS: We further introduce envelope N. 181, of E. Dawson for his grand-children, versus the Cherokee Nation, and its contents, to-wit: The Petition and affidavit of F. M. Dawson, and the testimony of Joseph Dawson.
(Hands papers referred to to applicant's attorneys.)

BY MR. McKENNON: To the introduction of all of which the applicants object, because it is wholly incompetent and irrelevant.

The envelope above introduced is endorsed as follows:
"No.181. E. Dawson vs the Cherokee Nation. For his grand children. Petition for citizenship. Filed Sept. 14th, 1883, D. W. C. Duncan, Clerk of Com. Decided Sept.13, to be Cherokees.

The contents of said envelope are as follows:

"Office of Commission on Citizenship.
Tahlequah, Cherokee Nation, Sept. 14, 1883.
E. Dawson,
No.181. vs for his grand children,-
Lulu Dauthett,
Dallas Dauthett,
F. M. Dawson for Claimant introduced sworn and in open Court testified as follows:
My name is F. M. Dawson. Am a Cherokee by blood reside in the Cherokee Nation am 30 (40 written over it) years old.

I saw the Claimants, Lulu Dauthet and Dallas Dauthet in Vinita, and know them to be the grandchildren of my brother E. Dawson who is a recognized Cherokee by blood. L. M. Dauthet, the father of the Claimants, Lulu and Dallas is a White man Dauthet's wife the mother of Lulu and Dallas was a Cherokee, the daughter of my brother E. Dawson, she is now dead. The oldest of these applicants is about 9 years old. I have known them about 8 years. These children is now living with their father. One is a girl and the other is a boy. I had been acquainted with her mother all her life. If she had been now living she would have been about 35 years old - - She has been dead about 4 years as well as I can recollect. She was about 17 years old when she was married.

(signed) F. M. his x mark Dawson,

Office of Commission on Citizenship,
Tahlequah, Cherokee Nation, Sept. 14, 1893.
No.181 E. Dawson
for his grand children
Lulu Dauthett
Dallas Dauthett

Joseph Dawson introduced for Claimants, sworn in open Court testified as follows:

Jos. Dawson, am a Cherokee live in the Cherokee Nation, am 31 years old.

Lulu Dauthett and Dallas Dauthett, the Claimants are Cherokees. Fannie Dawson was their mother. Fannie Dawson was a Cherokee, that is what I was always told. Her father was E. Dawson. E. Dawson was my brother. Mrs. Dauthett is not living now: the last time I saw Lula, and Dallas Dauthett, they were in Texas. But I have heard since that they are in the Cherokee Nation. E. Dawson recognizes them as his grandchildren and I have known them ever since they were born.

By Solicitor:

Lula is about 10 years old. The Dallas is about 5 or 6 years old. I heard that their father is now at Vinita Cherokee Nation, E. Dawson is Elbert Dawson. The applicants' mother has been dead about three or four years. She died at Hillsboro, Texas.

I was not present when their mother and E. Dawson had eight children to the best of my recollection, or 9. Fannie, Francis, Cartenas, Zanie, Bob, Smith, Worsh, Bert, Ella. All living but two, Fannie and Smith. They are all living in Texas when I left there. I am a brother to F. M. Dawson, we are full brothers. My father has been admitted to Cherokee Citizenship by this Court.

(signed) Joseph his x mark Dawson,

To the Commission on Citizenship,
Tahlequah, C. N. Sept. 12, 1893.
E. Dawson for grandchildren,
Lulu Dauthett,
Dallas Dauthett,
vs
Cherokee Nation.

Now comes E. Dawson petitioning for the Cherokee rights of his grandchildren, Lulu Dauthett & Dallas Dauthett, by virtue of their Cherokee blood, which was derived from the

Dawson family, who is acknowledged Cherokees by admission of your Hon. Court, at its last session in January, 1883, in view of the facts ask your Hon for a speedie and favorable consideration of our claims.

(signed) E. Dawson for grand children,
By G. H. Taylor."

This last document is indorsed on back as follows: "No. 181, Petition of Lula, Dauthett & Dallas Douthitt, for Citizenship Filed Sept 14, 1883, R. V. C. Duncan, Clerk."

BY MR. HUTCHINGS: Now we desire to introduce the judgment in the case of S. R. Dawson, and others, of the Commission on Citizenship, found on page 20, of Record Book B, of the Citizenship cases in the Cherokee Nation, said book having been turned over to and now in the custody of the Commission; the judgment being dated April 28th, 1889.

BY MR. McKENNON: To the introduction of which the applicants object, because it is wholly incompetent, immaterial and irrelevant.

Record above introduced is as follows:

"Office of Commission on Citizenship,
Tahlequah, C. N. August 11th, 1887.

Docket No.		Names,	Age	Sex	Post Office,	Attorney
	1	S. R. Dawson,	66		Catoosa,	
	2	Parlee Dawson,	44	female		
307	3	Amerion J. Dawson,	35	"		
	4	Katharine J. Dawson,	33	"		
	5	J. G. Dawson,	31	male		Bell &
	6	Eliza F. Dawson,	29	"	Applicant for	Bryant.
	7	Toliver Dawson,	27	"	Cherokee Nation.	
	8	Eva Dawson,	20	female		
	9	Fanny Dawson,	18	"		
	10	John Riley Dawson,	11	male	R.	
	11	Robert E. Dawson,	9	"		
	12	Claud Dawson,	7		Ancestor	
	12	Cleveland Dawson,	3		John Rogers	

-- filed August 11th, 1887."

In red ink written along Age column is the following: "Rejected April 20, 1888."

"Now this day comes the above case for final hearing, Samuel R. Dawson, bases his application for readmission to citizenship in the Cherokee Nation upon the ground that he is the son of Samuel Dawson a white man, Polly Rogers the alleged daughter of Captain John Rogers and Chilsey Pruitt, said to be a half sister of Joseph Vann, commonly known as Rich and who were of Cherokee blood. It is admitted that John Rogers and Chilsey Pruitt died before the roll upon which their names would appear if living at the time and specified in the 7th section of the Act of December 8th, 1886, creating the Commission on Citizenship, were made but in support of the application it is urged that certain members of the Dawson family and full brothers of the applicant were re-admitted to citizenship by the Commission on Citizenship commonly known as

"The Tehee Court", and the "Spears Court", and are now residing as citizens in the Cherokee Nation. In the opinion of this Commission the sufficiency of the considerations which determined the decision of those Commissions of the testimony now introduced to authorize the admission of the present applicant is not relivent to the issue now pending. The 7th section of the Act of December 8th, 1886, before named provides, that "The Commission shall give a hearing to any person applying for citizenship in the Cherokee Nation upon the ground of Cherokee blood or descent, but such applicant must be a person, or the lineal descendant of a person whose name appears upon the census rolls of Cherokees taken by the United States," As are hereafter enumerated. Neither the name of the applicant nor that of the person of whom he claims to be a lineal descendant appearing upon eitherof said rolls the Commission adjudge and decree that Samuel R. Dawson and family are not entitled to re-admission to citizenship in the Cherokee Nation as Cherokees by blood. This opinion includes the cases of Andrew J. Dawson, James K. P. Dawson, Jounnah Barber nee Jounnah Dawson and Jane Queen, nee Jane Dawson, and their families, as enumerated in their respective applications.

(signed) Will P. Ross,
Chairman.

This April 26th, 1889.
(signed) D. L. Williams,
Cl'k Com'n."

(signed) R. Bunch, Commissioner,
John E. Gunter, Com'nr.

BY MR. HUTCHINGS: The Nation now introduces the envelope in the case of James K. P. Dawson, and the contents, being the original testimony in the case of E. Dawson; also the judgment in said case, found on page 116, in book C., containing the records of the Citizenship Commission of the Cherokee Nation, the date of said Judgment being April 26th, 1889; this book being also in the custody of this Commission.

BY MR. McKENNON: To the introduction of all of which the applicants object, because it is wholly incompetent, immaterial and irrelevant.

The envelope above introduced is indorsed on back as follows:

"Ware, James K. P. Dawson, APPLICANT FOR CHEROKEE CITIZENSHIP. Address, - - - Age, - - Years, - - Roll of 1835, Ancestor, Riley Dawson, filed the 5 day of Oct. 1887, Docket 989, Book C Page 116, Testimony on Journal - - Page - - - Decision of Commission Rejected 26 day of April 1889
Rejected."

The contents of said envelope are as follows:

"A. J. Dawson, et al., (vs) Cherokee Nation. } Office Com. On Citizenship, Tahlequah, I. T. Sept. 27th, 1888.

E. Dawson, who being duly sworn, upon his oath, deposes and says as follows, to wit:

I am a citizen of the Cherokee Na ion and reside in Cooweescoowee Dist. and am 53 years old. I am acquainted with the applicant, Andrew J. Dawson, he claims to be a relation of mine. I have known him personally about three (3) years, He said his father was Joe Dawson. I know the party, the applicant, from circumstances, and have no doubt but that he is a realtion of mine.

Joe Dawson, the father of the applicant was my father's brother. Joe Dawson was considered to be a Cherokee, I think he died on the Hiwassee river in Tenn. I think he had four (4) children. I haver saw any of them but Andrew J. Dawson, and Jim Dawson.

-Cross Ex.-

Joe Dawson has been dead about 35 years he lived west of the Mississippi River, I understand. My father had four brothers. I don't know how long Jou Dawson had been living in Tenn. before he died. All that I know of the applicant being the son of my Uncle Jou Dawson, is from what he himself has told me, - My grandfather, Sam Dawson was a white man. The applicant could be of the Dawson name and not be related to me- My grandfather being a Dawson and a white man.

Attest

Connell Rogers,
Clk. Com. on Citizenship."

This document is indorsed on back as follows:
"Testimony of E. Dawson in case A. J. Dawson."

The judgment above introduced, and found on page 116 of Book C of the Dockets of Cherokee Citizenship Commission, is as follows:

"James K. P. Dawson,
OFFICE COMMISSION ON CITIZENSHIP.

Tahlequah, Ind, Ter., Oct. 5, 1887.

Docket	No.	Names	Age	Sex	Post Office	Attorney
	1	James K. P. Dawson,	-	male		
	2	William A. Dawson,				
	3	Richard A. Dawson,				
989						C. H. Taylor.

Applicant for
vs. Cherokee Citizenship,
Census Rolls 1835
Ancestor,
Riley Dawson.

Cherokee Nation. "

In red ink along age column are the words: "Rejected April 26, 1889."

- - - - - - - - - - - - -

"Adverse to Claimant.
See decision in this case in that of S. R. Dawson in Book (B) Page 30.
This April 26, 1889.

D. S. Williams,
Clk Com.

Will P. Ross,
Chairman.
J. E. Gunter, Com."

BY MR. HUTCHINGS:
The Nation desires to introduce the original envelope and its contents in the case 196, of Rebecca Dawson, being the application and judgment in the case, also the judgment as copied into the record, Book C, on page 144, the date of said judgment being August 28th, 1889.

BY MR. McKENNON: To all of which the applicants object, because it is wholly incompetent, immaterial and irrelevant.

The envelope just introduced is indorsed on the back as follows:

"196, 1, Name Rebecca Dawson, APPLICANT FOR CHEROKEE CITIZENSHIP. Address Emmet, I. T., Age 48 years, 1835, to 1852, Poll of 18-- Ancestor Maton, Filed the 5 day of Oct 1887, Docket 1017 Book C Page 144, Testimony on Journal- Page - - Decision of Commission, Rejected 28 day of August 1889. Submitted by Mr. Rasmus, Aug. 28, 1889." R"

The contents of said envelope are as follows:

"APPLICATION FOR CITIZENSHIP.

To the Honorable Commission on Citizenship:
Gentlemen:- The undersigned, your petitioner, this day makes this her application for re-admission to citizenship in the Cherokee Nation, in accordance with the Consittution, and with an act of the National Council approved December 8th, 1886, creating your Commission, And respectfully makes the following statement of the grounds for this, her application, to-wit:
That Rebecca Dawson is the Grand Daughter of one Moton, who the undersigned firmly believes was enrolled upon the Census Rolls of Cherokees by blood, citizens of the Cherokee Nation, taken and made in the years 1835,-48 - 51 - 52.
The undersigned hereby presents the above facts as the lawful grounds for this application for Cherokee citizenship by blood, and respectfully awaits the time when Application shall be truly heard and tried in accordance with he aforesaid law.
Age, 48 years; Postoffice, Emmett, Chic. Na. family with their relationship attached is as follows:

No	Name	Sex	Age	Relationship.

In witness o which application I hereto set my hand on this the 4- day of October 1887.
(signed) Rebecca Dawson,
Boudinot & Rasmus,
Attorneys."
- - - - - - - - - - -

"COMMISSION ON CITIZENSHIP.
Cherokee Nation, Ind. Ter.
Tahlequah, August 28th, 1889.

Rebecca Dawson)
V. S.
Cherokee Nation.) The above case was called and submitted by

Rasmus withour evidence the Commission decide that Rebecca Dawson, Age 48 yrs is not a Cherokee by blood a d are not entitled to citizenship in the CherokeeNation Post Office Emmet Texas - - I. T.

(signed) WILL P. ROSS,
Chairman,
J. E. Gunter, Com."

- - - - - - -

The judgment found in Book C, Records of Commission on Citizenship, Cherokee Nation, page 144, is as follows:

"Rebecca Dawson.
OFFICE COMMISSION ON CITIZENSHIP.
Tahlequah, Ind. Ter., Oct. 5th, 1887.

Docket No	Names	Age Sex	Post Office Attorney.
1	Rebecca Dawson	48 female	Emmett, I. T.
1017			Boudinot & R. Applicant for Cherokee Citizenship.
			Census Rolls, 1835, to 1852. Ancestor, Moton.

V. S.
Cherokee Nation.

- - - - - - -

Office Commission Citizenship,
Cherokee Nation, Ind. Ter.,
Tahlequah, Aug. 28th, 1889.

The above case was called and submitted by Attorney Rasmus without evidence. The Commission decide that Rebecca Dawson, aged 48 years is not a Cherokee by blodd and not entitled to Citizenship in the Cherokee Nation.

Attest:
E. C. Ross,
Clerk Commission.

Will P. Ross,
Chairman.
J. E. Gunter, Com."

BY MR. HUTCHINGS: The Nat on next introduces the iriginal envelope and contents in the case 198, of Mary Dawson, the contents being the application for citizenship, and the judgmeny as written up by the Court: also the judgment of the Court as copied in Book C. page 145,- said judgment being rendered August 28th, 1889.

BY MR. McKENNON: To all of which the applicants object, because the same is immaterial, irrelevant and incompetent.

The envelope just introduced is indorsed on back as follows:

"198, 2, Name, Mary Dawson, APPLICANT FOR CHEROKEE CITIZENSHIP. Address, Bowie, Texas, Aged 54, years, 1835 to 1852 Roll of 18- Ancestor, Moton, Filed the — day of 9 18— Docket 1018, Book C Page 145, Testimony on Journal— Page— Decision of Commission Rejected 28th day of August 1889. Submitted by Mr. Rasmus, Aug, 28, 1889."

"APPLICATION FOR CITIZENSHIP".

To the Honorable Commission on Citizenship:

Gentlemen:- The undersigned, your petitioner, this day makes this her application for re-admission to citizenship in the Cherokee Nation in accordance with the Constitution, and with an Act of the National Council, approved December 8th, 1886, creating your Commission, And respectfully makes the following statement of the grounds of this her application, to-wit:

That Mary Dawson is the Grand Daughter of one Moton who the undersigned firmly believes was duly enrolled upon the Census Rolls of Cherokees by blood, citizens of the Cherokee Nation, taken and made in the years 1835,-48 - 51 - 52.

The undersigned hereby presents the above facts as the lawful grounds of this her application for Cherokee Citizenship by blood, and respectfully awaits the time when her Application shall be truly heard and tried in accordance with the aforesaid law.

Age, 54, years; Postoffice, Bowie, Texas, Family with their relationship attached is as follows:

No.	Name	Sex	Age	Relationship.
1	Walter Dawson	M	18	Son.

In witness of which application I hereunto set my hand on this the 4 day of October 1887.

Mary Dawson,

Rowdinot & Rosrus,
Attorneys."

- - - - - - -

COMMISSION CITIZENSHIP,
Cherokee Nation, Ind. Ter.,
Tahlequah, August 23th, 1889.

Mary Dawson, vs The Cherokee Nation } Application for Cherokee Citizenship.

The above named case having been submitted by W. F. Rosrus, Attorney for claimant, without evidence, the Commission decide that Mary Dawson age 54 yrs, and her son Walter Dawson, age 18 yrs, are not of Cheroke blood, P. O. Bowie, Texas.

Will P. Ross,
Chairman.
J. E. Carter, Com."

- - - - - - -

Said envelope also contains the following:

APPLICATION FOR CITIZENSHIP

TO THE HONORABLE COMMISSION ON CITIZENSHIP: Gentlemen:- The undersigned, your petitioner, this day makes this his application for re-admission to citizenship in the Cherokee Nation, in accordance with the Constitution and with an act of the National Council, approved December 8th, 1886, creating your Commission. And, respectfully makes the following statement of the grounds of this his application, to-wit: That James K. P. Dawson is the son of one Riley Dawson who the undersigned firmly believes was duly enrolled upon the - - - Rolls of Cherokees by blood, citizens of the Cherokee Nation, taken and made in the year 1835, the undersigned hereby presents the above facts as the lawful grounds for this his application for Cherokee Citizenship by blood, and respectfully awaits the time when his application shall be duly heard and tried

in accordance with the aforesaid law.
Age - - years; Post-office - - -; family with their relationship attached is as follows:

Names,	Sex Age	Relationship.
William A. Dawson	Male	Son.
Richard A. Dawson,	"	"

In witness of which application I hereto set my hand on this the 4th day of Oct 1887.

(signed) James K. P. Dawson,
C. H. Taylor, Attorney."

- - - - - -

The judgment as recorded in Book C, page 145, of the records of the Cherokee Commission on Citizenship, is as follows:

"Mary Dawson,

Office of Commission Citizenship.

Tahlequah, Ind. Ter., Oct. 5th, 1887.

Docket No.	Names	Age	Sex	Post Office	Attorney
1	Mary Dawson,	54	female	Bowie, Texas.	
2	Walter Dawson,	18	male		

Boudinot & R.
Applicant for
Cherokee Citizenship.

Census Rolls 1835 to 1853
Ancestor
- - - - - -

vs.
Cherokee Nation.

- - - - - -

Office Commission on Citizenship,
Cherokee Nation, Ind. Ter.,
Tahlequah, Aug 28th, 1888.

The above case having been submitted by W. F. Parris, attorney for claimant, without evidence, the Commission decide that Mary Dawson aged 54 years, and her son Walter Dawson aged 18 years are not of Cherokee blood. Post office Bowie Texas.
Attest:

E. C. Ross,
Clerk Commission.

Will P. Ross,
Chairman.
J. E. Gunter, Com."

- - - - - -

BY MR. HUTCHINGS: The Nation further introduces the original envelope in the case of Andrew J. Dawson, which said envelope contains his original application; also the judgment in that case recorded on page 30, of Book A, of the records of the Citizenship Commission of the Cherokee Nation, which said records are now in the custody of the Commission; the judgment is dated April 26th, 1889.

BY MR. McKENNON: To all of which the applicants object, because the same is immaterial, irrelevant and incompetent.

The envelope just introduced above, is endorsed as follows:

"Name, Andrew J. Dawson, APPLICANT FOR CHEROKEE CITIZENSHIP. Address, Nevada, Mo. Age 44 years, - - 1835, Roll of 1835, Ancestor, - - Filed the 11 day of February 1887, Docket 37 Book A, Page 38 Testimony on Journal - - Page, Decision of Commission, REjected, 26 day of April, 1889. Rejected."

The contents of said envelope are as follows:

"To the Commission on Citizenship.

Tahlequah, I. T.,
January 27, 1887.

	Age		
Andrew J. Dawson,	44	years	Male
E. E. Dawson,	16	"	"
Olive M. Dawson,	14	"	female
William H. Dawson,	11	"	male
Jessie K. Dawson,	9	"	"
Glennie D. Dawson,	8	"	female.

V.S.
Cherokee Nation.

Know comes Andrew J. Dawson, and five children claiming his right to Cheroke Citizenship by virtue of his Cherokee blood, he eing a cousin of E. Dawson ad others of the sere name admitted to Citizenship by the Tom Tehee Court on Citizenship, which is a matter of record, we submit that as proof of the Justness of his claim, his ancestors will be found on the roll of 1835.

Respectfully,

Post-office, (signed) A. J. Dawson &
Nevada, Mo. five children,
by C. H. Taylor,
Attorney."

" " " "

The judgment just introduced and found on page 38 of Book A, Records of Cherokee Commission on Citizenship, is as follows:

"Andrew J. Dawson,
Office Commission Citizenship,
Tahlequah, C. N., Feby 11, 1887.

Docket No	Family	Name	Age	Sex	
	1	Andrew J. Dawson,	44	Male	Nevada, Mo.
	2	E. E. Dawson,	16	"	
37	3	Olive M. Dawson,	14	female	
	4	William H. Dawson,	11	male	Applicants for
	5	Jessie K. Dawson,	9	"	Cheroke Citizenship,
	6	Glennie D. Dawson,	8	female	C. H. Taylor.

Rolls 1835,

Rejected April 26, 1889, (red ink.)

V.S.
Cherokee Nation.

Ancestors,

Filed Feby 11, 1887,

Adverse.

See decision in this case in that of L. R. Dawson,
Book P.20.
rendered April 26- 1889.
D. S. Williams,
Clk Com."

- - -

BY MR. HUTCHINGS: We next desire to introduce the records in the case of this same Andrew J. Dawson, before the Commission to the Five Civilized Tribes, filed September 7th, 1896, and the judgment of the Commission thereon. Number of said case being 4,094. And the judgment of said case on Page 294, Book B., Dawes Commission Record, 1896. Judgment was rendered November 17th, 1896, denying the application.

BY MR. McKENNON: To all of which the applicants object, because the same is immaterial, irrelevant and incompetent.

The records just introduced, being those filed before Dawes Commission, 1896, in Andrew J. Dawson, et al., are as follows:

Registry Receipt,
Post Office at Vinita, Sep. 7, 1896, Cherokee Nation, Ind. Ter., Registered Letter, No. 409, Rec'd, of A. J. Dawson, addressed to S. H. Hayes, Tahlequah, I. T., (signed) D. A. Frayser, L.-P. M.

- - -

"Commission to the Five Civilized Tribes,
Vinita, Ind. Ter., Sept. 7, 1896.
See that you swear to your petition.

Evidence of service of copies of Chief or Governor may be secured as follows: If convenient get his receipt to file with your papers. If you cannot do this, register to him, and have some interested person to make affidavit in form about as follows:

I, S. M. Davidson, do solemnly swoear that on the 7th day of September, 1896, I saw a package registered at the Post office at Vinita, Indian Territory, addressed to Hon. S. H. Hayes, Chief of the Cherokee Nation, Tahlequah, Ind. Ter., that registry receipt no.409, received from postmaster, hereto attached, is a receipt for said package, which contained true copies of the application of Andrew J. Dawson, and of the affidavits of E. Dawson and F. H. Dawson in support of same.
(signed) S. M. Davidson.
Subscribed and sworn to before me, on this 7th day of September, 1896.
(seal). (signed) W. H. Kornegay,

Notary Public, First Judicial Division,
of the Indian Territory.

Attach receipt to this affidavit and send with papers to the Commission at Vinita, Indian Territory. This takes the place of the former instructions, as we understand that packages are not promptly receipted for by the Chiefs and Governors.

xxx _____
For the Commission."

APPLICATION FOR ENROLLMENT.

To the Honorable Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Cabaniss and Alexander B. Montgomery, United States Commissioners, authorized by an Act of Congress of June 4th, 1896, to hear and determine claims for citizenship in the Cherokee Nation:

Gentlemen:-

The undersigned, your petitioner, Andrew J. Dawson. ~~William H. T. Dawson Jesse K. B.~~. (Line in ink drawn through these names) for and on behalf of Minnie E. E. Dawson, Olive Maud Dawson, William H. T. Dawson, Jesse K. Dawson, Glen Dale Dawson, James K. P. Dawson, William A. Dawson, Maggie E. Dawson, Richard A. Dawson and Mary E. Dawson and heirs, this day make their application to you for the purpose being placed on the revised roll of Cherokee Indians and of those entitled to share in the distribution of the funds and allotments of lands in the Cherokee Nation by virtue of their Cherokee blood, and petitioners state that they are Cherokee Indians by blood, deriving the same from Captain John Rogers, Polly Rogers, Daughter of Captain John Rogers, married Samuel Dawson, whose name will be found on the authenticated rolls of the Cherokees by blood, taken in the years 1817, 1818, 1819 and 1835 & 1838 the same to be submitted to your Honorable Commission for a full and complete investigation, and if found correct as stated, to be granted all the rights, privileges and immunities of other Cherokee citizens; and petitioner herewith files his proof in support of said claim, and respectfully awaits the time when his application shall be heard and tried.

Respectfully submitted,
Andrew J. Dawson,

Enrollment of family, with relationship attached, as follows:

Names.	Ages.	Relationship.
Minnie E. E. Dawson,	25	Daughter,
Olive Maud Dawson,	23	daughter
William H. T. Dawson,	20	son,
Jesse K. Dawson,	18	son.
Glen Dale Dawson,	16	daughter.
James K. P. Dawson,	27	brother.
William A. Dawson,	13	Nephew.
Maggie E. Dawson,	8	Neice.
Richard A. Dawson,	17	Nephew.
Mary E. Dawson,	5	Neice.

IN WITNESS WHEREOF, I hereunto set my hand this Third day September 1896.

(signed) Andrew J. Dawson."

Jurat on back as follows:

United States of America,
Indian Territory,
Northern District.

Andrew J. Dawson, of lawful age, being duly sworn states that he knows the facts set forth in the above and foregoing application and that the same are true as he verily believes.

(signed) Andrew J. Dawson.

Subscribed and sworn to before me on this the 3rd day of September 1896.

(signed) J. A. Tillotson,
(Seal) Notary Pbulic.
My Commission expires June 8" 1899.

- - - - - - -

Indian Territory,)
Northern Judicial Dis- (SS.
trict

Andrew J. Dawson, of lawful age, being by me first duly sworn on oath says that he is 52 years old that his post office address is Afton, I. T. Affidavit further says that he is a citizen of the Cherokee Nation and a Cherokee Indian by blood deriving his Indian blood from Polly Rogers daughter of Captain John Rogers, that Polly Rogers, a daughter of Captain John Rogers married Samuel Dawson near Calhoun, Tenn. on the Hiawathia river while emigrating to the west.

Affidavit further says that Samuel Dawson and Polly Rogers are his Grandfather and Grandmother and that Captain John Rogers was recognized by the National Council of the Cherokee Nation as a Cherokee citizen in the laws of the Cherokee Nation of 1852 as follows: An act of the Council of 1842 page 68, an act of Nov. 17" 1843, page 96. Also an act of Nov. 16 1849 page 204.

Affidavit further says that he is a blood relation of E. Dawson, F. M. Dawson, Joseph Dawson, and John Dawson who were admitted to citizenship by the Cherokee Nation and whose names appear upon the authenticated rolls of 1893.

(signed) Andrew J. Dawson.

Subscribed and sworn to before me this 3" day of September A. D. 1896.

(signed) J. A. Tillotson,
(Seal) Notary Public.
My Commission expires June 8" 1899."

"Indian Territory,)
Judicial Dist.) S.S.
)

F. M. Dawson, of lawful age, being by me first duly sworn on oath says that he is 54 years old; that his post office address is Afton, Indian Territory, Affidavit further says I have known Andrew J. Dawson for the past 10 years and have known him and recognized him as a Cherokee Indian and a cousin of mine, he claims to have originated from the family of Joe Dawson and he was a brother of Robert Dawson my father, and he being an ofspring of Sam Dawson, who married Polly Rogers, a daughter of Captain John Rogers, who was a recognized Cherokee Indian.

(signed) F. M. his x mark Dawson

Subscribed and sworn to before me this the 4th day of Sept 1896."

(signed) Frank L. Sharp
Notary Public. (Seal)"

- - - - - - -

"Ind Ter
Northern Dist

This affidavit made this 4th day of Sept 1896 by E. Dawson of this Dist in the Cherokee Nation
I have known A. J. Dawson 10 years and have known him and recognized him as a Cherokee Ind and a cousin of mine, he claims to originate from the family of Joe Dawson and he was a brother of Robert Dawson and being an offspring of Sam Dawson who was (line in ink drawn through word was) married Pollie Rogers a daughter of Captain John Rogers who was a recognized Cherokee Indian.

(signed) E. Dawson.

Subscribed and sworn to before me this 4th day of Sept 1896.

(signed) J. Barricklaw,
Notary Public,

My commission expires June 8, 1898.
(Seal)"

Indorsed on back: "No. 1509, A. J. Dawson vs Cherokee Nation Filed Sept 7-1896 A. S. McKennon, Com'r."

- - - - - - -

Before the Honorable Henry L. Dawes, Frank C. Armstrong, A. S. McKennon, T. B. Cabaniss, A. B. Montgomery, Commissioners.
In the matter of the application of
Andrew J. Dawson, Nation's No.....
Commission's No.....
for citizenship in the Cherokee Nation.

Your respondent, S. H. Mayes, Principal Chief of the Cherokee Nation, comes now and demurs the said application, and for the grounds thereof says:

1st. That this Commission has not jurisdiction over the parties or subject matter of this controversy.

2nd. That the application does not state facts sufficient if true, to show that the applicant . . . entitled to citizenship.

Respondent not waiving his aforesaid demurrer, but insisting upon the same for answer to said application, says that John Rogers through whom the petitioner claims to derive right to citizenship in the Cherokee Nation, is not now, - . . and has not been a citizen of the Cherokee Nation, since the removal of said Nation, west to the Indian Territory, as at present located and defined; that his name does not appear on any of the authenticated rolls of said Nation; that neither nor any of his ancestors now reside, or ever have resided in the Cherokee Nation and Indian Territory, as citizens thereof.

See case Nation's No. 1873.

Having fully answered, your respondent asks to be hence dismissed.

S. H. Mayes, Principal Chief Cherokee Nation.

B. Hutchings, Hastings & Boudinot, Attorneys.

John L. Adair, Executive Secretary, Cherokee Nation, having been first duly sworn, states that the matters contained in the foregoing answers are true, to the best of his knowledge and belief.

(signed) John L. Adair,

Subscribed and sworn to before me this the 5 day of Oct 1896.

(signed) D. J. Ball,
Notary Public.

(Seal)"

Indorsed as follows: "Nation's No. 4679.
Commission's No. 4694, In re application of Andrew J. Dawson, DEMURRER AND ANSWER. Filed Oct 21 H. M. Jacoway, Sec."

The foregoing documents, comprising the 1896 papers as above set forth, are inclosed in envelope indorsed:

"No. 4694, Petition of Andrew J. Dawson, and heirs, Cherokee, 9-7-96. Rejected."

Which envelope is inclosed in jacket, marked "No.4694."

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BY MR. HUTCHINGS: Now we desire to introduce the records in the case of Joanna Barber, et als., No. 1864, the United States Court number being 90, and the Nation desires to call especial attention to the testimony of W. C. Rogers and Sarah Carter as set forth in this case.

BY MR. McKENNON: To all of which applicants object, because it is wholly irrelevant, immaterial and incompetent.

Records in said case are as follows:

blood is shown by proof herewith filed.

APPLICATION FOR ENROLLMENT.

To the Honorable Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Cabaniss and Alexander B. Montgomery, United States Commissioners authorized by an act of Congress of June 4, 1896, to hear and determine claims for Citizenship in the Cherokee Nation:

Gentlemen:- The undersigned, your petitioner, Joanah Barber, for and on behalf of himself and heirs, this day makes this their application to you for the purpose of being placed on the revised roll of Cherokee Indians and of those entitled to

shares in the distribution of funds and allotments of land in Cherokee Nation, by virtue of their Cherokee blood, and I herewith submit the affidavits of E. Dawson, S. R. Dawson, F. A. Dawson & F. M. Dawson in support of said claim, and respectfully await the time when our application shall be heard and tried.

Respectfully submitted,
(signed) Joanah Barber.

Enrollment of family, with relationship attached, as follows:

Names	Age	Relationship.
Joanah Barber,	60	Daughter of Elizabeth or Betsy
Isaac J. " Husbd	65	Petty, nee Dawson, who was a
Onis E. "	26	daughter of Polly Dawson, nee
Wm. R. "	34	Rogers who was a daughter of
James E. "	18	Capt Jno Rogers and Ailey Rogers
Johny "	6	nee Ward a Cherokee Indian by
Joel A. Barber	39	blood as is shown by proof herewith filed.

In witness of which I hereto set my hand on this 6 day of August 1896.

(Signed) Joanah Barber."

Indorsed as follows: "Fd 2.50 No.... Petition of Joanah Barber for and on behalf of herself and heirs."

TO THE HONORABLE HENRY L. DAWES AND OTHERS COMPOSING THE COMMISSION TO THE FIVE CIVILIZED TRIBES:

Your petitioner, Joanah Barber, would state and show from the proof submitted to the Commission that she is a Cherokee by descent and by blood having been born in Carroll County, State of Ark. on the 5 day of Dec 1835. My fathers name was John Petty. My mothers name was Elizabeth Petty, nee Dawson. That I now reside in the Cherokee Nation, and have resided there for 10 years. And she avers these facts can be established by proof to the satisfaction of the Commission under such rules and regulations as it may prescribe. And she further avers that these facts being proved she is entitled to be adjudged under the laws of such Nation and the laws of the Congress of the United States and the treaties of such Nation with the United States, a citizen of such Nation, with all the rights, privileges and protection of Citizenship in such Nation. Wherefore she herewith respectfully submit to the consideration of the Honorable Commission such proof and on the hearing she be adjudged entitled to such citizenship and her name be placed upon the proper roll as a citizen of such Nation.

(signature Joanah Barber.

INDIAN TERRITORY,)
(SS
FIRST JUDICIAL DIVIS)

Now on this 6 day of Aug personally appeared before me E. J. Watts a Notary Public in & for the said Territory, Joanah Barber, who being duly sworn upon his oath states that the facts set forth in the foregoing Petition are correct and true.

Subscribed and sworn to before me this 6 day of August 1896.

(signed) W. J. Watts,
(Seal)" Notary Public.

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"(COPY)
In the matter of the claim of Joanah Barber nee Joanah Petty to Cherokee Indian Citizenship in the Cherokee Nation, Indian territory.

Affidavit of S. R. Dawson.

Delaware District,)
Cherokee Nation,)
Firt Judicial Division,)
U.S. Court, Indian Territory. (SS
)
)
)

S. R. Dawson, to me well known to be reliable and respectable, after being duly sworn according to law states on oath, that he is a bona-fide citizen of the Cherokee Nation by blood- that he is a resident of said Nation- that his post-office address is Afton, I. T.; that he is fifty-one years of age- that he is well acquainted with the claimant Joanah Barber and has as long as he has known any person- that she is of Cherokee Indian descent- that her maiden name was Joanah Petty- that she was the daughter of one Elizabeth Petty, a person of Cherokee Indian descent- that Elizabeth Petty's maiden name was Elizabeth Dawson- that said Elizabeth Dawson was the daughter of Polly Rogers, a person of Cherokee Indian descent, who intermarried with Samuel Dawson, a white man- that he said Polly Rogers was the daughter of Captain John Rogers and Ailsey Vann both well known Cherokee Indians.

Affiant is not directly nor indirectly interested in the result of this application.

(Impress of National Seal) (signed) S. R. Dawson.

Subscribed & Sworn to before Jany 6 1892
(signed) W. P. Hubbard,
Notary Public."

"United States of America,
Indian Territory, (ss
First Judicial Division,

I, William F. Rasmus, a Notary Public within and for the Judicial Division aforenamed, do hereby certify that the next above in the within one page of an affidavit is a true and literal copy of the original as presented to me at Tahlequah, Ind. Terry, this the Third day of July A.D. 1893.

(signed) William F. Rasmus,
Notary Public, First Judicial Division, Indian Territory.
(Seal) My Commission expires Feby 3, 1897."

(A copy)

In the matter of the claim of Joanah Barber (nee Joanah Petty).

to Cherokee Indian Citizenship in the Cherokee Nation, Ind Ter.

Affidavit of E. Dawson.

Coowescoowee District,)
Cherokee Nation,)
First Judicial Division,) ss
U. S. Court, Ind. Ter.)

E. Dawson, to me well known to be reliable and responsible after being duly sworn according to law states on oath that he is a Bonified citizen of the Cherokee Nation by blood- that he is a resident in said Nation that his post office address is Talala, Ind Ter.-that he is 58 years of age- that he is well acquainted with the claimant Joanah Barber and has been as long as he has known any person- that she is a person of Cherokee Indian descent the her maiden name was Joanah Petty- that she was the daughter of one Elizabeth Petty, a person of Cherokee Indian descent- that Elizabeth Petty's maiden name was Elizabeth Dawson- that said Elizabeth Dawson was the daughter of one Polly Rogers a person of Cherokee descent, who intermarried with Samuel Dawson, a white man, that the said Polly Rogers was the daughter of Captain John Rogers a well known Cherokee Indian.

Affiant is not directly nor indirectly interested in the result of this application.

(signed) E. Dawson.

Subscribed and sworn to before me this the 24th day of Febry 1893

(signed) A. E. Williams,
Notary Public.

(Impress of
National Seal
here.)
Com. Exps. Sept. 26/96.

United States of America,
Indian Territory, S S
First Judicial Division.

I, William F. Rasmus, a Notary Public within and for the First Judicial Division, Indian Territory, do hereby certify that the next above and the within one page of an affidavit is a true and literal copy of the original presented to me at Tahlequah, Ind Ter. this the third day of July A.D.1893.

(signed) Wm. F. Rasmus.

(Seal) Notary Public, first Judicial Division; Indian Territory, My Commission expires Febry 3, 1897.)

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United States of America,
Western District of Arkansas. SS.

In the case of one Johnah Barber claimant for citizenship in the Cherokee Nation, Indian Territory, as a Cherokee Indian by blood, before Cherokee Indian authority at Tahlequah, Cherokee Nation, Indian Territory.

Personally came this day before me William F. Rasmus, a Commissioner U. S. Court within and for the District aforesaid duly authorized to administer oaths W. A. Dawson, to me personally well known to be reputable and entitled to credit, and who being by me first duly sworn according to law, deposes and

and says: My name is F. A. Dawson, my age is 62; years; my post-office address Tulsa, Ind. Terry, I am a farmer by occupation, I am a citizen of the Cherokee Nation, I. T. by virtue of Cherokee Indian blood.

And affiant declares in relation to the above named case as follows, to-wit: That he is personally well acquainted with the claimant, Joanah Barber- whose mother's name was Elizabeth (commonly called Betty) Petty, Dec'd nee Elizabeth Dawson, - a Cherokee Indian by blood, and who was the sister of his father; James Dawson, Dec'd, a recognized and acknowledged Cherokee Indian by blood- She was also a sister of Robert Dawson Dec'd a recognized and acknowledged Cherokee Indian by blood- said Robert Dawson having been a full brother to said James Dawson- that therefore the said claimant, Joanah Barber is his (affiant's) first cousin by Cherokee Indian blood and that he so recognized and acknowledged her.

(signed) F. A. Dawson.

Subscribed and sworn to before me at Tahlequah, Ind. Terry this third day of December A.D.1894.

(signed) Wm. F. Rasmus,
(seal) United States Commissioner."

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"UNITED STATES OF AMERICA.)
Western District of Arkansas.)ss

In the case of Joanah Barber claimant for citizenship in the Cherokee Nation, Indian Territory, as a Cherokee Indian by blood, before Cherokee Indian authority at Tahlequah, Cherokee Nation, Indian Territory.

Personally came this day before me William F. Rasmus, a Commissioner of the U. S. Dist. Court within and for the District aforenamed duly authorized to administer oaths Francis M. Dawson, to me made personally well known to be reputable and entitled to - - and who - - duly sworn according to law deposes and says: My name is Francis M. Dawson my age is about 57 years, my post-office address is Afton, Ind. Terry, I am a farmer by occupation, I am a citizen of the Cherokee Nation, by virtue of Cherokee Indian blood.

And affiant declares in relation to the above named case as follows, to-wit: I am personally well acquainted with the claimant Joanah Barber, whose mother's name was Elizabeth (commonly called "Betty") Petty, nee Elizabeth Dawson, a Cherokee Indian by blood, said Elizabeth Petty was a full sister of my father Robert Dawson Dec'd, a Cherokee Indian by blood- and I acknowledge the relationship by Cherokee Indian blood of Joanah Barber to me as first cousin- and I know that the said Joanah Barber therefore is of Cherokee Indian blood.

(signed) F. M. Dawson.

Subscribed and sworn to before me at Tahlequah, Ind. Terry- this 17th day of November A.D.1893.

(signed) Wm. F. Rasmus,
(seal) United States Commissioner.

Indorsed on back as follows: "No. 1 filed Feb 24 1897, Jas. A. Winston, Clerk."

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"Page 21, Docket "B"
Joannah Barber.
Office Commission on Citizenship,
Tahlequah, C. N. August, 1887.

Docket No.	Names	Age.	Sex.	Post Office.	Atty.
1	Joannah Barber	51	female	Vinita, I. T.	
2	Ailcy J. Barber	34	female		
3	Irena Barber	24	female		
4	Emma Barber	22	female		
5	Atta Barber	20	female		
6	Mary Barber	19	female	applicant for	
7	Onice Barber	17	female	Cheroke Citizenship	
8	Joel Barber	31	male	Rolls 1836	
9	Calaway Barber	27	male		
10	Toliver Barber	26	male	Ancestor	
11	Riley Barber	15	male		
12	Edgar Barber	9	male		
	V.S.			John Rogers &	
	Filed Aug.12, 1887.			Alcy Pruett	

See decision this case in that of L. R. Dawson, adverse to claimant in this Book page 20.
This April 26th, 1889.

D. S. Williams, Clerk com.
Will. P. Ross, Chairman,
J. E. Gunter, Com."

"S. R. Dawson.
Office Commission on Citizenship,
Tahlequah, C. N. Aug. 11th, 1887.

Docket No.	Names.	Age.	Sex.	Post Office	Atty.
1	S. R. Dawson,	60		Catoosa, I. T.	
2	Parlee Dawson,	44	female		
3	America J. Dawson,	35	female		
4	Katherine J. "	35	female		
5	J. G. Dawson,	31	male		
6	Elias F. Dawson,	28	male		
7	Toliver Dawson,	27	male	Applicant for	
8	Emma Dawson,	20	female	Cherokee	
9	Fanny Dawson,	18	female	Nation	
10	John Riley Dawson	11	male		
11	Robt. E. Dawson,	9	male	R	
12	Clara Dawson,	7	female		
13	Cleveland Dawson	3		Ancestor	
	Filed Aug. 11, 1887.			John Rogers	
	Rejected April 26, 1889.				

Now this day comes the above case for final hearing, Samuel R. Dawson bases his application for re-admission to Citizenship in the Cherokee Nation upon the ground that he is the son of Samuel Dawson, a white man, Polly Rogers, the alleged daughter of Captain John Rogers, and Chilsey Pruett said to be half sister of Joseph Vann and only known as rich and who were of Cheroke blood. It is admitted that John Rogers and

Chilsey Pruett died before the roll upon which their names would appear if living at the time, and specified in the 7th Section of the Act of December 6th, 1886, creating the Commission on Citizenship were made, but in support of the application it is urged that certain members of the Dawson family the full brothers of the applicant were admitted to citizenship by the Commission on Citizenship commonly known as the "Tehee Court" and "Spears Court" and are now residing as citizens in the Cherokee Nation. In the opinion of this Commission the sufficiency of the consideration which determined the decisions of those Commissions or the testimony now introduced to authorize the admission of the present applicant is not novelant is the issue now pending. The 7th Section of the Act of December 6th, 1886, before named provides that the Commission hearing to any person applying for citizenship in the Cherokee Nation upon the grounds of Cherokee blood or descent, but such applicant must be a person, or the lineal descendant of a person whose name appears upon the census rolls of Cherokees taken by the United States, or hereafter enumerated, neither the name of the applicant nor that of the person of whom he claims to be a lineal descendant appearing upon either of said rolls, the Commission adjudge and decree that Samuel R. Dawson and family are not entitled to re-admission of citizenship in the Cherokee Nation as Cherokees by blood. This opinion includes the case of Andrew J. Dawson, James K. P. Dawson, Joannah Barber, nee Joannah Dawson, and Jane Queen, nee Jane Dawson and their families as enumerated in their respective applications.

Will. P. Ross, Chairman,
R. Bunch, Commissioner,
This April 26th, 1889, John E. Gunter, Commissioner.
D. S. Williams, Clerk Com."

- - - - - -

United States of America,)
Indian Territory,) ss.
Northern District.)

W. C. Rogers being duly sworn on oath deposes and says: that he is a citizen and resident of the Cherokee Nation, Indian Territory. That his post-office address is Skin-atook, Ind. Ter. That he was born and raised in the above said Nation and Territory; that he is 46 years of age.

Affiant further states that he is slightly acquainted with Irena J. House, an applicant for admission to citizenship in the Cherokee Nation as shown by copy of her application.

Affiant further states that his father's name was Charlie Rogers who was a son of Captain John Rogers and the said Capt. John Rogers was the only man of that name that ever lived in the Cherokee Nation that this affiant ever heard of; that the said Capt. John Rogers this affiant's grandfather lived at Grand Saline, I. T. and died in Washington, D. C.

This affiant states that his father Charlie Rogers had one sister and five brothers viz: Synthia Rogers, Lewis Rogers, George Rogers, Nelson Rogers, Granville Rogers and Randolph Rogers; that he (this affiant) was well and personally acquainted with the above said parties except Granville and Randolph Rogers, who were killed when this affiant was quite young.

This affiant states that he was 16 years of age when his father, Charlie Rogers died, that his father never had any other family (this in ink from here) that he had no brothers or sisters than the ones a few mentioned; that the wife Polly Rogers named in the application for citizenship of Frank J. House, was not a sister of his father; that his father never had but one sister viz: Cynthia Rogers that this affiant never heard of; that this affiant was well acquainted with his aunt Cynthia Crump."

Just here the following is inserted on each paper:

"EXECUTIVE DEPARTMENT OF
CHEROKEE NATION. I, John L. Adair, Executive Secretary of the Cherokee Nation, do hereby certify that I have compared the foregoing with the original record in this Department, and that the same are correct copies and transcripts therefrom.

In witness whereof I have hereunto set my hand and affixed the Great Seal of said Cherokee Nation, at Tahlequah, this, the 5th day of Feb. 1896.

(signed) John L. Adair,
(Seal) Executive Secretary."

Then the above affidavit continues:

"(nee) Rogers that she lived with this affiant's father for a number of years prior to his death.

Affiant states that he had often talked with his father, Charlie Rogers and his aunt Cynthia Crump (nee Rogers) about his relatives; that they never spoke of any other sister in their family; that this affiant was about 10 years of age when his aunt, Cynthia Crump died; that they told him there never was (words "never was" marked over with ink) father never had any other daughter or daughter other than Cynthia Rogers.

Affiant states that his father told him a number of times; that this affiants grandfather Capt John Rogers never had any other family other than the one above mentioned; that this affiant never heard his father Charlie Rogers or any of his relatives speak of his grandfather Capt John Rogers owning or running a boat up any river.

Affiant states his father Charlie Rogers was born on Big Mulberry, South-east of Van Buren, Arkansas, in the year of 1817.

Further affiant saith not.

F. . Rogers.

Subscribed and sworn to before me on this the first day of October, 1896.

(signed) William H. Hall,
Notary Public.
(seal) My Commission expires January 16th, 1900."

"United States of America,)
Indian Territory, (SS
Northern District.)

Mrs. Sarah Carter being first duly sworn states: that she is a citizen and resident of the Cherokee Nation, Ind. Ter. and her post office address is Bluejacket, I. T., that she is 65 years of age.

Affiant states that she is the widow of Charlie Rogers; that her grandfather on her father's side was Capt John Rogers. Affiant further states that W. C. Rogers is her brother, and that she has read the foregoing affidavit of W. C. Rogers, and knows the contents thereof; that the facts therein set forth are true as she verily believes.

(signed) Sarah Jane R.

Subscribed and sworn to before me this the first day of October, 1896.

William H. Hall,
Notary Public.

My Commission expires January 18th 1900.
(seal)

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Before the Honorable Henry L. Dawes, Frank C. Armstrong, A. S. McKennon, T. B. - (name torn off) A. B. Montgomery, Commissioners.

In the matter of the application of Nation's No.1575
Joanna Barber Commission's No...
et al-
for citizenship in the Cherokee Nation.

Your respondent, S. H. Mayes, Principal Chief of the Cherokee Nation, comes now and demurs to said application, and for the grounds thereof says:

1st. That this Commission has not jurisdiction over the parties or subject matter of this controversy, and not legal right, therefore, to hear and determine the same.

2nd. That the application does not state facts sufficient, if true, to show that the applicants are entitled to citizenship.

Respondent not waiving the aforesaid demurrer, but insisting upon the same for further answer said application, says the John Rogers through whom the petitioners claim to derive their rights to citizenship in the Cherokee Nation, is not now, and has not been a citizen of the Cherokee Nation, since the removal of said Nation, west to the Indian Territory and at present located and defined; that his name does not appear upon any of the authenticated rolls of said Nation; that neither he nor any of their ancestors now reside or ever have resided in the Cherokee Nation and Indian Territory, as citizens thereof.

Having fully answered, your respondent asks to be hence dismissed.

S. H. Mayes, Principal Chief Cherokee Nation.

By Hutchings, Hastings & Boudinot, Attorneys.

John L. Adair, Executive Secretary, Cherokee Nation, having been first duly sworn, states that the matter contained in the foregoing answer are true, to the best of his knowledge and belief.

(Signed) John L. Adair,

Subscribed and sworn to before me this, the 3rd day of Oct, 1896.

(Signed) D. J. Bell,
Notary Public.

(seal)

Indorsed on back as follows: # 1804. 90 Nation's No. 1877, Commission's No..... In re application of No 2 Joanna Barber Demurrer and Answer Filed Mar 13 1897 Jas. A. Winston, Clerk/ Filed Oct 7 1896 M. J. Mooney, Secy."

"BRIEF.

BEFORE THE HONORABLE COMMISSION OF THE UNITED STATES OF AMERICA,

duly appointed and empowered to Act, under and by virtue of the Act of Congress of June 4th 1896, to hear and determine all claims for citizenship in the Five Civilized Tribes of Indians, to-wit:
Cherokee, Creek, Choctaw, Chickasaw and Seminole Indians.

In the matter of the application for citizenship in the Cherokee Nation, of Joanna Barber and her children, to-wit:

Onis E. Barber, William R. Barber, James E. Barber, Johnnie Barber and Joel A. Barber.

In the matter of the application for citizenship in the Cherokee Nation of Joel A. Barber and his children, to-wit: Mattie Barber, Toliver Barber, George A. Barber, Franklin O. Barber, Jessie Barber and Ethel Barber.

In the matter of the application for citizenship in the Cherokee Nation of Mary A. Borer and her child, to-wit: Inez Borer.

In the matter of the application for citizenship in the Cherokee Nation of Ella L. Murphy and her child, to-wit: Claude M. Murphy.

In the matter of the application for citizenship in the Cherokee Nation of Ella Moore and her children, to-wit: Anna J. Moore, Jackson D. Moore, Rhenby Moore and Gladys Moore.

In the matter of the application for citizenship in the Cherokee Nation of Attie L. Hunt and her child, to-wit: Dorman Hunt.

In the matter of the application for citizenship in the Cherokee Nation of Alcey J. Smart and her children, to-wit: Georgia A. Smart and Emzy M. Smart.

In the matter of the application for citizenship in the Cherokee Nation of Joannah J. Garlinghouse and her children, to-wit: Myrtle O. Garlinghouse, Cora L. Garlinghouse and Birtha M. Garlinghouse.

In order that the Honorable Commission may clearly and fully understand the proof and merits of the claim of the aforesaid Claimants, we deem it necessary to present to the Honorable Commission, the genealogy of each of said claimants, to-wit:

Joanna Barber, whose maiden name was Joanna Petty, is a daughter of Elizabeth Petty, nee Dawson and a granddaughter of Polly Dawson, nee Rogers and a great granddaughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by the proof herein submitted.

Joel A. Barber is a son of Joanna Barber, nee Petty and grand son of Elizabeth Petty, nee Dawson and a great grand son of Polly Dawson nee Rogers and a great great grand son of Captain John Rogers, who was a Cherokee Indian by blood as shown by the proof herein submitted. Mary A. Barber, whose maiden name was Mary A. Barber, is a daughter of Joanna Barber and grand daughter of Elizabeth Petty, nee Dawson and great grand daughter of Polly Dawson, nee Rogers and a great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by the proof herein submitted.

Ella Murphy, whose maiden name was Ella Barber, is a daughter of Joanna Barber, nee Petty and a great grand daughter of Elizabethe Petty, nee Dawson and a great great grand daughter of Polly Dawson nee Rogers and a great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood, as shown by the submitted proof.

Ella Moore, whose maiden name was Ella Barber, is a daughter of Joanna Barber, nee Petty and a grand daughter of Elizabeth Petty nee Dawson and a great grand daughter of Polly Dawson, nee Rogers and a great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by the submitted proof.

Attie L. Hunt, whose maiden name was Attie L. Barber, is a daughter of Joanna Barber, nee Petty and a grand daughter of Elizabeth Petty, nee Dawson and a great grand daughter of Polly Dawson, nee Rogers and a great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood, as shown by the submitted proof.

Alcey J. Smart, whose maiden name was Alcey J. Barber, is a daughter of Joanna Barber, nee Petty and a grand daughter of Elizabeth Petty, nee Dawson, and a great grand daughter of Polly Dawson, nee Rogers, and a great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by the proof herein submitted.

Joanna J. Garlinghouse, whose maiden name was Joanna J. Smart, is a daughter of Alcey J. Smart, nee Barber, and a grand daughter of Joanna Barber, nee Petty and a great grand daughter of Elizabeth Petty, nee Dawson and a great great grand daughter of Polly Dawson, nee Rogers, and a great great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by the proof herein submitted.

Therefore, the Claimants pray the Honorable Commission, that after a careful examination of their application and an impartial investigation of the proof herein submitted, you will adjudge each of said Claimants, together with their aforementioned Children, entitled to citizenship in the Cherokee Nation, and that you place the name of each Claimant, together with the names of their aforementioned Children, upon the Cherokee roll, and that you grant to them all the rights, privileges and immunities of citizens of the said Cherokee Nation.

(signed) Hubbard, Garland & Watts,
Counsel for Petitioners.

Indorsed on back as follows: "No 3 Filed Feb 24 1897, Jas. A. Winston, Clerk."

Commissioners,
Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Cabaniss, Alexander B. Montgomery—H. M. Jacoway, Secretary.

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,
Vinita, Indian Territory, Oct 2, 1896.
Filed Sept. 8, Answer filed,
Application denied.

Joanna Barber,
vs.
Cherokee Nation.

I, H. M. Jacoway, Jr., Secretary, do hereby certify that the above and foregoing is a true and correct copy of Cherokee Record A. Page 297 of the Commission to the Five Civilized Tribes.

Given under my hand and official signature this the 12 day of Feb. 1897.

H. M. Jacoway, Jr.,
Secretary."

Indorsed as follows: "1864 No. 4 Filed Feb 24 1897 Jas. A. Winston, Clerk."

"BEFORE THE HONORABLE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Joanna Barber et al,
vs.
Cherokee Nation. No. 1864.

AFFIDAVIT FOR APPEAL.

Now comes the said Joanna Barber et al applicants for citizenship in this case by W. B. Watts, one of their attorneys, and pray an appeal from the decision of the Honorable Commission to the United States District Court as provided by the Act of Congress approved June the 10th, 1896.

And the said W. B. Watts, being duly sworn and acting on behalf of said applicants says that the appeal prayed for in this case is not asked for the purpose of delay but that justice may be done the appellants.

(signed) W. B. Watts,

Sworn and subscribed to before me this 22nd day of December 1896.

(signed) J. C. Lindsey,
Notary Public.
(SEAL)
My Commission expires March 28th 1897."

Indorsed: "Court 99."

"Received of H. M. Macomy, Jr., Secretary of the Commission to the Five Civilized Tribes, the original papers, in the case of - - - - vs - - - - Nation, as follows:

/ / / / / / /

Witness my hand and official seal at Muskogee this the 20 day of Feby 1897.
(SEAL) (Signed) J. Q. Winston, Clk."

Indorsed: "Court # 00 No.1864. Receipt for original papers in the case of Joanna Barber et al vs. Cherokee Nation. Received and filed this . . . day of . . . 189. . . Secretary."

- - - - - - -

"IN THE UNITED STATES COURT FOR THE INDIAN TERRITORY,
NORTHERN JUDICIAL DIVISION, AT MUSKOGEE, IND. TER.

Joanna Barber Onie E. Barber, William R. Barber, James E. Barber, Jennie Barber, Joel A. Barber, Mary A. Barber, Ella Moore, Attie L. Hunt, Alcey J. Grant, APPELLANTS.
vs
CHEROKEE NATION, APPELLEE.

PETITION FOR APPEAL FROM THE DECISION OF THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Come now the appellants in the above entitled cause and petition the Court to grant an appeal in said cause from a decision of the Commission, known as the Dawes Commission, created and empowered to treat with the Five Civilized Tribes of Indians, to-wit: the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Indians, and to pass upon and decide applications for citizenship in the said Five Civilized Tribes, which decision by said Commission was rendered by authority of, but not in accordance with, an Act of Congress passed and approved June 10th, 1896, and by which decision on the 29 day of October, 1896 the aforesaid appellants were denied their rights to citizenship in the Cherokee Nation, Indian Territory.

The facts relied upon by the appellants to establish their rights to citizenship in the Cherokee Nation, as aforesaid are as follows: to-wit: The affidavits of E. Dawson, S. R. Dawson W. A. Dawson, F. M. Dawson.

Said affidavits fully and conclusively establishing the fact that said applicants are Cherokee Indians, by blood and descent, and entitled to rights of citizenship in the Cherokee Nation.

Said affidavits, together with the application, of said appellants, were, prior to September the 10th, 1896, filed with and submitted to said Commission for its investigation, consideration and decision.

That a certified copy of said application, together with the accompanying affidavits, were served upon the Chief, or Attorney General, of said Cherokee Nation, prior to September the 10th, 1896.

The errors of the Commission in rejecting the claims for citizenship of said appellants are the grounds for appeal to this Court, to-wit:

FIRST. The Commission erred in rendering its decision on said claims adversely to the appellants and against the proof submitted by said appellants.

SECOND. The Commission erred in investigating the claims of appellants and denying same during the absence of a majority of the members of the Commission.

THIRD. The Commission erred in refusing the appellants the right and privilege of examining the proof submitted by appellee in support of the answers filed by the appellee and denying the appellants the right of filing replication to appellee's answer or producing proof in rebuttal of the same.

FOURTH. The Commission erred in denying the appellants the right of a trial of their claims by a competent jury, as granted to them by the law and constitution of the United States.

FIFTH. The Commission erred in refusing appellants the right to be present in person, or by attorney, during the trial and determination of their claim before the said Commission.

SIXTH. The Commission erred in refusing to issue process for witnesses and to send for persons and papers when requested to do so by the appellants.

SEVENTH. The Commission erred in deciding against the right of these appellants to be enrolled as citizens of the Cherokee Nation.

EIGHTH. The Commission erred in deciding against blood, holding that blood was not a test of the right of citizenship in said Cherokee Nation.

NINTH. The Commission erred in deciding against the question of residence, holding that residence in the Cherokee Nation was not a test of the right of citizenship in the said Cherokee Nation.

TENTH. The Commission erred in not entering upon their docket or record the grounds upon which the claims of appellants were denied and refusing to notify appellants the grounds of denial or rejection.

ELEVENTH. The Commission erred in examining the claims and proof of appellants and denying the same while the Commission was not clothed with any legal authority, nor had jurisdiction, to render decision on said claims and deny the same.

TWELVTH. That the Act of Congress approved June the 10th, 1896, was unconstitutional and had no power or legal right to confer jurisdiction on said Commission to try and determine the rights to citizenship of said appellants, and said Commission erred in determining the rights and denying the same to said appellants.

THIRTEENTH. That Congress had no power by enactment to create, appoint and empower a judiciary, and said Commission erred in denying the claims of said appellants without any legal authority to do so.

Wherefore, the appellants of this cause pray that an appeal be granted to this Court and that a trial, de novo, be granted the appellants, and that said appellants be permitted to introduce new testimony, and that an order be made requiring said Commission to send all pleadings, papers and records filed before it in this cause to this Court, and that the Cherokee Nation, the appellee in this case, be cited to appear

at this Court and plead and defend against the appeal and show why the appellants should not by the rules, orders and decisions of this Court be adjudged entitled to citizenship in the said Cherokee Nation, and the appellants will ever pray.

(signed)
W. P. Watts,
A. H. Garland,
W. J. Watts,
Attorneys for Appellants."

Indorsed on back: "Cherokee Citizenship Case, No. 90 No 5 Joanna Barber et al vs Cherokee Nation Filed Dec 23 1896 Jas A Winston clerk Watts, Garland & Watts, Attorneys for Appellants."

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"SUMMONS.

SC WGW
United States of America,)
Indian Territory, (ss.
Northern District.)

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Marshal for the Northern District, Indian Territory:

You are commanded to summon the Principal Chief of the Cherokee Nation, or the Attorney General of said Nation, to answer on the first day of next May term of the United States Court for the Northern District, Indian Territory, at Muskogee, Indian Territory, being the 4th day of May, 1897, A.D. 189— a petition praying an appeal from the decision of the Commission to the Five Civilized Tribes duly filed in said Court by Joanna Barber, Onis E. Barber, Wm H Barber, Jas E Barber, Jennie Barber, Joel A. Barber, Mary A. Barber, Emma Moore, Attie L. Hunt, Alcey J. Smart, who claim to be entitled to be enrolled as citizens of said Nation, to the United States Court for the Northern District, Indian Territory, which petition is now pending in said Court, and warn him upon a failure to answer petition within thirty days from the time of the service of this writ, the same will be taken for confessed, and you will make due return of this summons within ten days after the actual service of this writ.

Witness the Honorable William M. Springer, Judge of said Court, and the seal thereof, at Muskogee, Indian Territory, this 28th day of Dec. 1896 A.D.189—

(signed) J. A. Winston, Clerk.

(SEAL)"

"MARSHAL'S RETURN.

I received this summons the 28" day of December A.D. 1896 and served the same as follows: W. T. Hutchings, Attorney for the Cherokee Nation Ind ter Accepted Service on the within at Muskogee, Ind Ter on this 12" day of January 1897

(signed) W. T. Watts

~~U. S. Marshal~~
By.....Deputy."

Indorsed on back as follows: "Citizenship Case No. 90
Ck. 6.. Nation.... Summons....Attys for Claimants."

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"Joanna Barber et al.
vs. No.90.
Cherokee Nation.

Mr. H. A. Gibson, Special Master, to whom this case was referred, submits the following report:

'IN THE UNITED STATES COURT IN THE INDIAN TERRITORY,
NORTHERN DISTRICT, AT MUSKOGEE.

JOANNA BARBER ET AL)

-VS.)- :,90 REPORT OF SPECIAL MASTER.

THE CHEROKEE NATION.)
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I, H. A. Gibson, Special Master herein, show to the Court that under the general order herein, I have examined the proof and pleadings herein, which is hereto attached and made a part hereof, and that I find as follows:

I

This this cause was instituted on September 8th, 1896, before the Dawes Commission to the Five Civilized Tribes, by Joanna Barber, and Isaac J. Barber, her husband, and their Children, Onis E., William R., James E., Johnnie and Joel A. Barber. That Joel A. Barber has the following children. Hattie Toliver, George A., Frankie O., Jose and Ethel Barber. That the application includes also Mary A. Boyer and her child Inez Boyer, Emma L. Murphy and her child Claud Murphy, Emma Moore and her children Anna J., Jackson D., Ruby and Gladys, Attie L. Hunt and her child Dorman Hunt, Ailsey J. Smart and her children Georgia A. and Enzey M. Smart, Joanie J. Garlinghouse and her children Myrtle O., Cora L. and Bertha M. Garlinghouse. That this application was by the Commission tried and rejected on October 20th, 1896, with no reasons given for the decision, and that subsequently on December 27, 1896, the claimants appealed to this Court. That the parties all live in the Cherokee Nation, Indian Territory.

II

That the parties claim the right to be admitted to citizenship in the Cherokee Nation by reason of their descent from Polly Rogers, who is claimed to be a Cherokee Indian by blood. That they filed in support of their application the affidavits of S. R. Dawson, E. Dawson, Francis M. Dawson, and W. A. Dawson, who testify that Joanna Barber is the daughter of Elizabeth Petty, nee Dawson, who was the daughter of Polly Rogers, who married a white man by the name of Samuel Dawson, and that Polly Rogers was the daughter of Captain John Rogers and Ailsey Vann. That these witnesses are all Cherokee citizens by blood, acquainted with the

claimants, and according to their testimony, related to them by blood.

The appellee introduced in contravention this testimony the decision of the Cherokee Commission on citizenship, rendered in the year 1896, in which these claimants were rejected by this Commission and also the affidavits of W. C. Rogers a grandson of Captain John Rogers, and Mrs. Sarah Carter, a granddaughter of Captain John Rogers, both of whom state that they never heard of any daughter of said Captain John Rogers by the name of Polly Rogers, and that Cynthia Rogers was his only daughter.

III

The claimants contend that they are residents of the Cherokee Nation, and are relatives of the Dawson family, who are recognized citizens of the Cherokee Nation by blood, are entitled to be admitted to the Cherokee Nation as citizens by blood, while the appellee contends that John Rogers, through whom the petitioners claim, is not now and has not been a citizen of the Cherokee Nation since the removal West; that his name does not appear on the rolls of the Cherokee Nation, and that he nor his ancestors ever resided in the Cherokee Nation as citizens thereof.

The premises considered, in view of the unsettled condition of affairs in the Cherokee Nation at the time when Captain John Rogers, the ancestors through whom these claimants trace their Cherokee blood, lived, and especially in view of the absence of a marriage law and of records pertaining to marriage, I am of the opinion that these claimants have proved that they are descended from Capt. John Rogers, who resided in the Cherokee Nation, and was a recognized citizen, though they do not show, that he was ever enrolled as such, and I therefore find that the claimants are all residents of the Cherokee Nation, Indian Territory, and that they are all Cherokee Indians by blood. That they have resided in the Cherokee Nation since 1907, and probably longer, though the proof does not state definitely how long they have so resided.

I ask that the Court allow me a reasonable fee for my services herein as Special Master.

Respectfully submitted this 10 day of August, 1907.

(Signed) H. A. Gibson,
SPECIAL MASTER.

My fee paid.

No Exceptions filed."

BY THE COURT.

From this report it appears that the claimants base their right to be enrolled as citizens of the Cherokee Nation upon the grounds that they are the descendants of a Cherokee Indian by blood, but their ancestors through whom they claim have never resided in the Cherokee Nation as now constituted. It appears that they have resided in the Cherokee Nation since 1907, and probably longer, though the proof does not state definitely how long they have so resided. It does not appear that the applicants or any of their ancestors have ever been recognized as members of the Cherokee Nation.

The judgment of the United States Commission rejecting this case is affirmed, and the application of the claimants

to be enrolled as citizens of the Cherokee Nation is denied."

Indorsed on back: "SC No.7 Joanna Barber et al vs Cherokee Nation, Final Report of Special Master, Filed August 17, 1897, Jas A. Pinston, Clerk."

Foregoing papers in Joanna Barber case enclosed in jacket indorsed: "SC Joanna Barber et Vs Cherokee Nation."

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"NOTICE.

SC
UNITED STATES OF AMERICA) In the United States Court for
INDIAN TERRITORY (SS said District.
NORTHERN DISTRICT.) In the matter of the application of Joanna Barber et al to be enrolled as citizens of the Cherokee Nation.

To the Commission to the Five Civilized Tribes.

You are hereby notified that an appeal has been taken in the matter of the application of Joanna Barber et al to be enrolled as citizens of the Cherokee Nation, from the said Commission, to the United States Court for the Northern District of the Indian Territory, and that your tribunal is requested by said Court to transmit at the earliest time practicable to said Court, at Muskogee, Indian Territory, a transcript of all the entries made in the docket of your tribunal relating to the case, together with the depositions and testimony taken before said tribunal; the decision thereof on the application, and all original papers relating thereto.

Witness the Honorable William H. Springer, Judge of said Court, and the seal thereof, at Muskogee, Indian Territory, the 23 day of Dec. 1896. A.D. 189--.

(SEAL) (signed) J. A. Pinston, Clerk."

Indorsed: "No. 1864 Joanna Barber et al vs Cherokee Nation, APPEAL ORDER OF U. S. COURT."

Foregoing paper enclosed in jacket marked: "No. 1864."

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BY MR. HUTCHINGS:

We now introduce the original record in the citizenship case of Irene J. House, et al., before the Commission in 1890, the court number of same being 238, said case being denied by the Commission; appealed to the United States Court, and the decision of the Commission affirmed.

In this case I desire to call especial attention to the certified copy filed therein of the testimony of Arthur Baker, the certified copy having been made in 1894, being the testimony of Dr. Baker in the case of Robert Dawson against the nation, number 108, before the Citizenship Commission, and which was made January 19, 1892.

BY MR. McKENNON: To all of which the applicants object, because the same is immaterial, irrelevant and incompetent.

The papers in Court No. 238, just introduced above, are as follows:

"Office of Commission on Citizenship,
Cherokee Nation, Tahlequah, January 19, 1882.

No. 108.
Robert Dawson et al } Exhibit C.
vs
Cherokee Nation. }

Testimony for Claimants.

Witness, Dr. Arthur Baker sworn testified as follows:

My name is Arthur A. Baker I reside at Berryvill Arkansas Carroll County my age is 73 years I am not a Cherokee. I lived in the Cherokee Nation about three years when I first came to Arkansas I have been acquainted with him since he became a citizen of Carrolls County some 35 years - At my Mothers house near Calhoun I became acquainted with the claimants Robt Dawson grandmother on mother's side she was frequently at my mothers house though she Anna Pruet lived in the Nation side; She claimed to be a half sister to Big Joe Vann, also claimed to be half Cherokee, the first time she brought the claimants mother to my mothers house she the mothers mother was about grown when I was a little boy. She called her daughter Polly Rogers, Said Captain John Rogers who ran a Boat up the River was the father of the child; I saw the girl frequently there at my mothers and there at Louis Russes Store.

I saw her occasionally until I was 15 or 16 years of old and I think then Old Capt. John Rogers took her off to school, I saw her no more from the time Old Capt. John Rogers took her off till I saw her here in Arkansas the wife of old Samuel Dawson, I stayed all night there and she and I had a talk over our old matters and I asked her where she became acquainted with Dawson and she said at the time she was going to school and she said after she left school that Dawson followed her home, to the Nation and they were there married. I have told that precisely in the words that she used, Capt John Rogers claimed to be one fourth Cherokee. The claimant is the son of Polly Rogers, and I know Polly Rogers to be the daughter of Anna Pruett and I know the claimant to be the son of Polly Dawson.

Capt. Rogers then resided in the Cherokee Country about ~~twenty~~ (Word "twenty" marked through) twelve miles below Calhoun on the Hiwassee River Anna Pruett resided in the Cherokee Nation as long as I stayed there the Dawson when I got acquainted with them Arkansas were recognized where they were as Cherokees. Robert Dawson children is Buck, John, Marian and two girls, The children named in the petition I recognized as being the claimants.

Question by Solicitor:

No. 1 How many children did Polly Rogers have?
Ans. 1 Five I think that's all.
No. 3 Did you say something about some one being married twice?
Ans. 2 The claimant was married twice.
No. 3 Could Anna Pruet speak Cherokee?
Ans. 3 Yes, she could speak it well.

Ques 4 Did Polly Rogers speak Cherokee?
Ans. 4 She did when she was young.
Ques 5 How far did you live from Anna Pruet?
Ans 5 Just across the river about 3/4 of a mile.
Ques 6 Was Calhoun in the Cherokee Nation?
Ans. 6 It was on both sides of the river part in the Nation and part out in the state.
Ques 7 Which Harnage was it went to Texas?
7 George went first, then John went, they were the sons of old man Harnage, that lived up near the line.
Ques 8 Did the Claimant go to Texas?
Ans. 8 No the Claimant did not go to Texas.
9 What connection was claimant and Polly Rogers?
9 The Claimant is the son of Polly Rogers Marion here is the grandson of Polly Rogers.
10 Where does claimant now live?
10 He lives in Carroll Co Arkansas.
11 Do you know what relation old Capt John Rogers was to Charles Rogers here in Cooweescoowee?
11 They claimed kin but what kin I dont know there were two Capt John Rogers in the Nation I am speaking of the time when I first came to this country about the year 1830.
12 Was Anna Pruet the maiden name of claimants grandmother
12 Yes that was her maiden name the Indian called her Sinee

his
(signed) Arthur x Baker
mark

Witness hand paralyzed is the reason why he signed by a mark thus x

I R T Hanks Assistant Executive Secretary do hereby certify that the foregoing document is a true and correct of the original as appears of record in the Executive Department of the Cherokee Nation.

Given under my hand and the seal of the Cherokee Nation on this the 5th day of December 1894.

(signed) R. T. Hanks,
(seal) Asst Exec Sec. "

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"To the Honorable the Dawes Commission on Citizenship in the Five Civilized Tribes in the Indian Territory:

Your petitioner, Irena J. House, undersigned, respectfully states that she is a Cherokee Indian by blood, as asks to be enrolled as a member of the Cherokee Nation of Indians in the Indian Territory. That she derives her said Indian blood from Joanah Barber her mother, who is a Cherokee Indian by blood The said Joanna Barber being a daughter of Elizabeth Petty who was the daughter of Polly Rogers and Samuel Dawson, the said Polly Rogers being the daughter of Captain John Rogers and Anna (alias Vann) Pruet, Cherokee Indians, as shown by a certified copy of the affidavit of Dr. Arthur A. Baker, which is hereto attached as Exhibit A also affidavits marked exhibits B- C- D- and E.

Your petitioner states the above facts as the lawful grounds for her application for citizenship in the Cherokee

Nation, and prays that her claim may be fully investigated by your Honorable Commission and that she be adjudged to be a citizen of said Cherokee Nation of Indians and entitled to all the rights and privileges pertaining to such citizenship in accordance with the laws and treaties with said Nation of Indians.

My age is 34 years. My Post Office address is Talala, Ind. Ter. My family consists of the following named persons: My husband and children as follows:
W. J. House, aged 34 years; Chas. C. House, aged 9 years; Winson T. House, aged 8 years, Anny F. House, aged 5 years.

WITNESS my hand this 19 day of August 1896.
(signed) Irene J. House.

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Northern Judicial
District, Ind. Ter. SS.

Personally appeared before me, the undersigned authority, Irena J. House, to me known to be the petitioner in the above petition, who being by me first duly sworn upon her oath says that she is the petitioner in the above petition, that she has read (or heard read) the said petition and that the facts stated therein are true, as she verily believes.
(signed) Irene J. House.
Subscribed and sworn to before me at Talala, Ind. Ter. this 19 day of August A.D.1896.
(signed) J. Barricklaw,
Notary Public, My Commission expires
(seal) June 8 1899."

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"Exhibit A.
Northern Judicial Division,
Indian Territory.
Joanah Barber being duly sworn according to law. on oath states My name is Joanah Barber I am 61 sixty one years old My Post office address is Watova Ind Ter- My husband occupation is farmer I am a Cherokee in Coweesoowe Dist I am a Cherokee Indian by blood my mother being Elizabeth Petty (nee Dawson) Daughter of Samuel Dawson and Polly Dawson (nee Rogers) and said Polly Rogers is a daughter of Capt Rogers and Anna Vann (commonly called Alsey Vann) the following Irene J. House is my daughter; she was born in Williamson County, Texas May 13" 1863, moved with her husband children to the Indian Tery and settled near Talala I Tery
(signed) Joanah Barber
Subscribed and sworn to before me this 19 day of Aug.1896.
(signed) J. Barricklaw,
Notary Public, My commission expires
(seal) June 8 1899

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"EXHIBIT B.

Indian Territory,
Northern Judicial District ss.
F. M. Dawson being duly sworn according to law deposes and says:

My name is F. M. Dawson; I am 54 years of age; My post office address is Afton Indian Territory I am a farmer by occupation and reside in the Cherokee Nation.

I am a recognized Cherokee citizen by blood. I was born in Carroll County Arkansas near Berryville. I derived my Cherokee Indian blood from my grandmother whose maiden name was Polly Rogers through my father Robert Dawson, My grandmother Polly Rogers was a Cherokee Indian and was married to Samuel Dawson my grand father in the old Cherokee Nation in Tennessee; My grand parents Samuel Dawson and his wife Polly came west from the Old Cherokee Country in about 1838 and settled in western Arkansas and later came on to the Indian Territory and the father of this affiant Robert Dawson and family settled in the Cherokee Nation, Indian Territory, Robert Dawson, the father of the affiant was also a recognized citizen of the present Cherokee Nation by reason of his Cherokee Indian blood.

The said Robert Dawson father of this affiant and Elizabeth Dawson who married John Petty were full brother and sister by blood, both being children of said Samuel Dawson and his wife Polly Dawson whose maiden name was Polly Rogers The said Elizabeth Petty was the mother of Joanna Barber who is a full cousin by blood of this affiant in the Indian side. The said Joanna Barber is the mother of Irena J. House nee Barber who is a second cousin of this affiant in the Indian side.

This affiant further states that he has seventy five to a hundred blood relatives who reside in the Cherokee Nation and are recognized Cherokee Indians by blood and drew their per capita money all the last payment; said citizens and relatives derived their Indian blood from the same source that the above named Irene J. House, derives her Indian blood and right.

This statement I have made to John H. Koogler, a Notary Public at Muskogee Indian Territory and it has been written down by him at my dictation. Such part of this testimony which refers to matters occuring previous to my recol ection I know by means of family history and traditions which facts I have always been taught and told of by my parents and grand parents from childhood up. ts facts stated as occuring since my childhood I know of my personal knowledge. Affiant further states that he is not personally interested in the prosecution of the application of said Irena J. House for citizenship in the Cherokee Nation.

(signed) F. M. Dawson."

"Indian Territory,
Northern District.

I John H. Koogler, hereby certify that the annexed and foregoing statement and affidavit was dictated to me by F. M. Dawson and was subscribed and sworn to by him and was written by me from his oral statement at my office in Muskogee Indian Territory this 14 day of August 1896, and I further certify that the said F. M. Dawson is personally known to me and that he is a creditable person and entitled to belief.

(signed) John H. Koogler,
Notary Public."

(seal)

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Northern Judicial District,
Indian Territory.

EXHIBIT D.

E. Dawson, being duly sworn according to law on oath states: My name is E. Dawson; I am 61 years old; my post office address is Talala, Ind. Ter. I am a Farmer by Occupation, and reside in Ooweescoowe District- Cherokee Nation. I am a recognized Cherokee Indian by blood, and exercise all the rights and immunities of a Cherokee Citizen now living in the present Cherokee Nation. I was born in Carroll County Arkansas near Berryville. I derived my Cherokee Indian blood from my Grandmother Polly Rogers through my father, Robert Dawson. My grandmother Polly Rogers was a Cherokee Indian and was married to my grandfather Samuel Dawson in the old Cherokee Nation in Tennessee. My Grand Parents, Samuel Dawson a d his wife Polly Dawson whose maiden name was Polley Roger come West from the Old Cherokee Country in about the year 1832, and settled in Western Arkansas, and later came on to the Cherokee Nation. My father Robert Dawson was a recognized member of the Cherokee Nation when he died, by reason of his Cherokee Indian blood.

The said Robert Dawson, the father of this affiant, and Elizabeth Dawson who married John Petty were full brother and sister by blood, both being children of the said Samuel Dawson and Polly Dawson his wife she being the same Polly Rogers as aforesaid. The said Elizabeth Pet y was the mother of Joanah Barber who is a full cousin by blood of this affiant on the Indian side, the said Joanah Barber is the mother of Irena J. House, whose maiden name was Irena J. Barber and a second cousin of this affiant on the Cherokee Indian side. This affiant further states that he has seventy five to a hundred blood relatives who reside in the Cherokee Nation and are recognized Cheroke Indians of the present Cheroke Nation and exercise all the rights and privileges of such Cherokee citizens, they having drawn their shares of the Strip Money at the last per capita payment made by the Cherokee Nation.

Said citizens and relatives derived their Cherokee Indian blood from the same source, as did the above named Irena J. House.

I have made this statement before J. Barricklaw, Notary Public at Talala, Ind. Ter, and affiant further states that he has no personal interest in the prosecution of the claim for citizenship in the Cheroke Nation of the said Irena J. House.

That the above facts which are within the personal knowledge of the affiant or within his years of discretion he knows personally, and the other facts which occured before the recollection of affiant he testifies to from what he has been taught from his family history and traditions.

That the relationship existing among all his people in the Cherokee Nation he knos from his personal knowledge and that they are related to the Cherokee Indian side.

(signed) E. Dawson.

Subscribed and sworn to before me this the 19 day of August 1896

(signed) J. Barricklaw,
Notary Public.

Notary Public, My Commission expires June 8, 1899.
(seal.)"

Cherokee Nation,
Cooweescoowee District. EXHIBIT E.

Before me the undersigned authority this day, personally appeared W. A. Dawson who is to me well and personally acquainted, and after being duly sworen; deposeth and says, that he is well acquainted with Irena J. House and knows she is a Cherokee Indian, and that he knows she is the daughter of Joana Barber, who is a neice of Robt. & James Dawson, who are both Cherokee Indians and recognized citizens of the Cherokee Nation.

Affiant further states that Irena House is the grand daughter of Mrs. Betty, who was a full sister of Robt & James Dawson.

Affiant further says that he knows that Irena House is a lineal descendant of Annie Dawson whose ~~children~~ (line drawn through word "children") sons, Robt & James before spoken are recognized citizens.

Affiant further says he has no interest in this suit.

(signed) W. A. Dawson.

Sworn and subscribed to before me this 17 day of August 1896.

(signed) William Lynch
Notary Public.

(Seal) My term expires Feb 6 1800."

Foregoing indorsed on cover as follows:
"No. 3099 5464 Before the Dawes Commission on Citizenship in the Five Tribes. Irene J. House V.S. The Cherokee Nation. Petition and Proof, Will E. Linton, for Petitioner. Filed Sept 8 1896 A. S. McKennon, Com'r. Denied. Filed Feb 26 1897 Jas A. Winston clerk."

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"Received of H. M. Jacoway, jr., Secretary to the Commission to the Five Civilized Tribes the original papers in the cause of .... vs..... Nation, as follows..... Witness my hand and of icial seal at Muskogee this the 26 day of Feb' 1897 J. A. Winston, Clerk."
(Seal)"

Indorsed: "Court No.238 No. 5464 Receipt for original papers in the case of Irena J. House vs. Cherokee Nation, Received and filed this ..... day of..... 189..."

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"Irene J. House et al,
vs. No. 238
Cherokee Nation.

Mr. N. A. Gibson, Special Master to whom this case was referred, submits the following report: (Insert report)

IN THE UNITED STATES COURT IN THE INDIAN TERRITORY.

NORTHERN DISTRICT AT MUSCOGEE.

IRENE J. HOUSE ET AL

VS # 238 REPORT OF SPECIAL MASTER.

THE CHEROKEE NATION.

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I, N. A. Gibson, Special Master herein, show to the Court that under the general order herein, I have examined the proof and pleadings on file in this case which are made a part of this report, and that I find as follows:-

I

That this case is in reality a branch of Case No. 90, Joanna Barber vs Cherokee Nation, the principal claimant herein being Irene J. House a daughter of Joanna Barber.

That this cause was instituted on September 3, 1896 at which time application was made to the Commission to the Five Civilized Tribes for citizenship by blood in the Cherokee Nation.

That this case was tried by the said Commission on November 24, 1896 and the applicants denied, no reasons being given for the decision, and that on January 30, 1897, the parties appealed from said decision to this Court.

That this application was made by Irene J. House, her husband, W. J. House, and their children Chas., C. Winston T.., and Henry W. House. That they file in support of their application the affidavits of Joanna Barber, F. M. Dawson, Arthur A. Baker, E. Dawson, and W. A. Dawson. That these Dawson witnesses are citizens by blood of the Cherokee Nation, and state that they are related by blood to the claimants herein on the Cherokee side. The claimants base their contention of a right to Cherokee citizenship upon the fact that the claimant Irene J. House is the daughter of Joanna Barber, who is the daughter of Elizabeth Petty, who was the daughter of Polly Rogers, and that Polly Rogers was the daughter of Captain John Rogers and Ailsey Vann, who were recognized Cherokee citizens by blood. That the testimony shows that this Dawson family are recognized citizens of the Cherokee Nation, and that the claimants herein are cousins by blood upon the Indian side, and that they all claim through a common ancestor, Polly Rogers and Captain John Rogers and Ailsey Vann, who were all recognized Cherokee Indians.

II

The appellee introduces in defense the record of the application of these claimants to the Cherokee Commission on Citizenship in the year 1887, and the record of the rejection of the claimants, and further the affidavits of W. C. Rogers, and Mrs. Sarah Carter, a grand daughter both of whom state that they never heard of any daughter of Captain John Rogers by the name of Polly Rogers, and the he had only one daughter, whose name was Cynthia.

III

The Clamants contend that the are residents of the Cherokee Nation and are relatives of the Dawsons, who are

recognized citizens of the Cherokee Nation by blood, are entitled to be admitted to the Cherokee Nation as citizens by blood, while the appellee contends that John Rogers, through whom the petitioners claim, is not now and has not been a citizen of the Cherokee Nation since the removal west. That his name does not appear on the rolls of the Nation, and that neither he nor his ancestors ever resided in the Cherokee Nation as citizens thereof.

IV

The premises considered, I find that the claimants are the descendants of Captain John Rogers, and that it was entirely possible that in the condition of affairs at that early date in the Cherokee Nation, especially owing to the absence of a marriage law and of records pertaining to marriage, that these claimants should be the descendants of Captain John Rogers or a daughter, Polly Rogers, of whom the affiants for the appellee may never have heard.

I find that the claimants are residents of the Cherokee Nation, Indian Territory, where they have resided since 1887, and that they are Cherokee Indians by blood.

I ask that the Court allow me a reasonable fee for my services herein as Special Master.

Respectfully submitted, this 9 day of Nov 1897.

(signed) H. A. Gibson,
Special Master.

My fee paid,
No Exceptions filed."

Foregoing papers indorsed on cover as follows: "238, Irene J. House et al V. Cherokee Nation Final Report of Special Master, Filed Nov 10 1897 Jas A. Winston, Clerk."

Foregoing papers enclosed in jacket indorsed as follows: "238, Irene J. House, et al vs. Cherokee Nation."

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BY MR. HUTCHINGS:

Well we close for the present.

TESTIMONY INTRODUCED ON BEHALF OF THE APPLICANTS:

D. W. C. DUNCAN, being first duly sworn, and being examined, testified as follows:

BY MR. McKENNON:

Q Please state your name, age and residence? A. My name is D. W. C. Duncan, my age is 78 years, my residence, Vinita, Indian Territory.

Q Are you a duly recognized citizen of the Cherokee Nation by blood? A I am.

Q You gave testimony in this case once before did you not, before the Dawes Commission? A I did.

Q Before this Commission I will say, this Commission? A The Dawes Commission? A Why I don't recollect who the Commissioner was, that was taken at Vinita, ex parte.

Q Were you in any way connected with the Cherokee Citizenship Commission in 1883 known as the "Tehee Commission"? A I was Clerk of that Commission.

Q For what length of time? A I don't recollect the exact length of time, I think it was about thirty days, during the continuance of that Commission, existance of that Commission.
Q You were the only clerk it had during its existance were you?
A I think I was.
Q You were Clerk of that Commission when it rendered a decision in favor of Robert Dawson et als, as found on page 114, of its record, numbered 108 (witness examines record referred to.) now in the possession of this Commission? A I was.
Q The members of that Commission were the same as shown by the signatures to this judgment were they? A The same, yes, sir.
Q Thomas Tehee, President of the Commission, Alex Wolfe and T. F. Thompson, Commissioners, that is correct, is it? A That's correct.
Q Were you present when this case was under consideration by that Commission and when it rendered this judgment in the case? A I was.
Q Were you at that time acquainted with F. M. Dawson, commonly called "Red Dawson", Campbell Taylor and Samuel H. Benge, who were attorneys, who were Cherokee attorneys at that time? A I might say that I merely know Mr. Dawson; all I know of him was I saw him there as a party to the suit. I knew Mr. Taylor and Mr. Benge more extensively; I have known them a number of years.
Q They were recognised Cherokee citizens were they? A They were.
Q Was Taylor not known generally as a Citizenship Attorney?
A I think he was.
Q Do you remember seeing him and Benge present at the time this case was under consideration by the Court? A Why I do not recollect seeing Mr. Benge, I cannot recollect, but I can recollect of seeing Mr. Taylor about the Court room now and then.
Q Do you know who submitted the case to the Court for the applicants? A Let me understand the meaning of that; who brought the case?
Q Who called up the case? A No, I don't recollect.
Q Do you remember whether that Commission rendered any other decision than that found upon this record in that case? A I never had any knowledge only but one decision.
Q Was that in favore of or against the applicants? A It was in favor of them; I will say this: that if there was another decision other than the one that appears on the docket now before you, I have no recollection of it.
Q The only decision you have any knowledge of was recorded by you in this book as here shown was it not? A That is the only one that I have any knowledge of.
Q Did Red Dawson pay you any money in connection with that case?
A He did not.
Q Did he ever promise to pay you any money for your influence with the Court in that case? A Never.
Q Or did you any money, either directly or through any other person? A For my influence in that case?
Q Yes, sir? A Never.
Q Did you have any knowledge of his having paid to the Court or to any member of the Court any money for the purpose of influencing their judgment in that case? A None whatever.
Q Did you have opportunity of observing his conduct during that Court at the time? A The only opportunity that I had was during the session of the Commission; I saw but very little of him during the recesses of the Commission; now and then I would see him in passing.
Q Did you see anything in his conduct toward that Court which indicated that he had used undue influence in procuring that judg-

ment? A I never observed anything of the kind; nothing that awakened a suspicion in my mind that he was engaged in that kind of practice.
Q Did Campbell Taylor at any time after the rendition of that judgment pay to you any money as coming through him from Bud Dawson for any services which you had rendered to him in that case?
A Yes, he paid me some.
Q What amount? A My recollection is that, I think it was a twenty dollar bill. I don't know but I had better go and state the transaction, all about it.
Q Yes, sir. A Mr. Dawson, Bud Dawson, during the trial of the case occasionally applied to me at my desk for writing paper, issue of a subpoena or transcript, something of that kind; I always treated him with courtesy and proper official consideration. He seemed to appreciate it, and whenever I did services of that kind to him, says he, I have no money, Mr. Duncan, but I feel as I ought to pay you. I told him I made no charges for work of that kind. And in passing I might state that I never received a cent for any kind of that work which I had been in the habit of doing for various parties before the Court.

After his trial was concluded, in the afternoon a little while before supper time I went to my hotel, The National Brick Hotel in Tahlequah; went to my room, felt a little tired, laid down upon the bed to rest. I recollect Mr. Duncan stepped into the room, drew a chair up to the bedside and sat down and commenced giving expression to his gratification at the success of his case, dwelling mostly upon the testimony in the case being so satisfactorily, establishing his Cherokee blood, and that he thought that he was entitled and that he had received justice by the Court. I listened to him, and we talked there I guess some ten or fifteen minutes; after a little he says, I must go to-morrow, I think he says to-morrow, I must go home,- he then lived down in Arkansas somewhere. Says he, Mr. Duncan, I believe I owe you something, ought to pay you something. Alluding, as I understood, to these little courtesies that I extended to him at my desk. Says I, I make no charges, Mr. Dawson, for services; if I have done you any good you are welcome. Well, says he, I feel indebted to you, I ought to pay you. I says, that makes no difference; I will leave that to you. Says he, I have hardly enough money to get back home. He shook my hand, and the last word he says to me, you shan't lose anything for your kindness to me; I thought he had reference to my services at the desk. That was the last I saw of Mr. Dawson, oh it must have been a year afterwards; I had located a little claim on the public domain up there in Delaware District, staked off what I intended to be a farm, merely stakes, I didn't make any other improvements, over there on Horse Creek. Went over in that part of the country to look after my claim, and I ran across Mr. Dawson, he had come into the Country and located and built him a little shanty and was living in it, I called upon him, he was very glad to see me; I asked him what he was doing there; he said he had moved into the country, and I told him, says I, you are encroaching upon me here; he had spread his claim over part of mine, mine had been made so long it was outlawed under Cherokee law. Well, says Mr. Dawson, I don't feel like doing you any wrong, I will pay you for your claim, and we will settle the matter in that way, that he as soon as he got his little matters together that he would satisfy me for it. Well we parted at that point. It ran on then for a long time, I don't know how long,- I think I met him in Vinita, and says he, did Camp Taylor pay you any money that I sent to you? Says I, No, I have not seen Camp Taylor.

Well, says he, I gave him some money and told him to hand it to you for me, and, says he, you ask him and he will hand it over to you I guess. Well we parted then. Well, went on for some time, some months; I happened to meet Mr. Taylor in Tahlequah; I met him on the street I think, jocularly I slapped my hand on his shoulder, says I, look here, did Mr. Dawson any money to me by you? He says, yes, and he pulled out what I recollect to be a twenty dollar bill, and handed it to me; I received it, and I received it with the idea that he was compensating me for taking my claim, or possibly for doing him those little services in the Court. Now that is the sum and substance of the whole thing.
Q Was not that twenty-five dollars, Mr. Duncan? A It might possibly have been, my recollection does not serve me exactly, it might have been 25 dollars.
Q Did Campbell Taylor pay you any other money as coming from Bud Dawson? A Never a cent.
Q Did he at one time pay you fifty dollars out of a hundred dollars which he had received from Mr. Dawson? A Never.
Q Did he on a second occasion pay you fifty dollars out of one hundred dollars which he claimed to have received from Mr. Dawson? A None at all.
Q He paid you no other money than that you have already stated, from Mr. Dawson? A Not a cent.

BY MR. McKENNON: We offer in evidence the judgment of the Cherokee Citizenship Commission before referred to, and ask that it be filed in evidence in the case of every application made by members of the Robert Dawson family who claim under it, or through Robert Dawson, as citizens of the Cherokee Nation, said judgment being found on page 114, Records of the Tehee Court, 1880 to 1884, case number 108, judgment dated January 11th, 1883, signed by Thomas Tehee, President, Alex Wolfe, T. F. Thompson, Commissioners. D. W. C. Duncan, Clerk Commission.

The said judgment just introduced is as follows:

"Office Commission on Citizenship,
Tahlequah, C. N., September 24th, 1881.
No. 108
Robt Dawson,
Elbert Dawson,
Jasper Dawson,
John Dawson,
Josephine Dawson,
Joseph Dawson, Petition for Citizenship
Jane Dawson,
Molly Dawson,
Wilbron Dawson,
James Dawson,
Rial Dawson,
vs.
Cherokee Nation.

Continued by the Plaintiff, Oct. 5 , 1881.

January 13th, 1882.
The above case continued by the Cherokee Nation till Sept.

term. Agreed by the parties that the notes shall not be taken up and signed upon either the 4th day of Oct. 1882.

October 4th, 1882

It is agreed by the parties that this shall be finally disposed of at the next January term if the claimant is present demanding the same, if not, the case shall be continued to the September term 1883.

On this agreed but continuance continues the case till the next January term to-wit, January 1883.

And now this the 16th day of January A.D. 1883 this case coming on for final hearing, and all the evidence produced in the case being carefully read and duly considered by the commission it was adjudged and determined by the commission on citizenship that the claimants, Robert Dawson, F. M. Dawson, Elbert Dawson, Eunice Dawson, Jane Dawson, Jo[illegible] Dawson, Joseph D[illegible]son, Jane Dawson, Lydy Dawson, Filgron Dawson, Moses Dawson, and Fial Dawson, are Cherokees by blood; and that they are entitled to all the rights and privileges of Cherokee citizenship within the Cherokee Nation, and that they should be, and they are, hereby admitted to the full and complete enjoyment of the same in all respects as native born Cherokees.

(signed) Thos. Tenney
President of com.

D. W. C. Duncan,
Clerk of commission.

Alex Wolfe, } Commission,
T. F. Thompson, } ord.

Transcript issued to claimants, January 16th, 1883.
(signed) D. W. C. Duncan, Clerk."

Marginal Notes: "Case submitted by claimant January 16th 1883." "Case submitted by Solicitor January 16th, 1883."

Q Do you remember the number of the Court were present when this judgment was rendered, or were all of them? A My recollection upon that point is not positive, but it is my belief that upon what I know to be the practice of the Court at the time, seeing the number of all these commissioners there, I say only with a great deal of positiveness that they were all present, because I never signed the name of one of the commissioners unless he was present, assenting to it or directing it.

Q The resolution of that judgment was concurred in by all of the three judges? A It was.

Q Mr. Duncan, if there had been a decision rendered the day before in this case while the court was in session, adverse to those claimants, would you have known it? A I certainly would have known it.

Q Was there any such decision of the Court? A None to my knowledge. I can say positively there was not.

Q How many of those judges are now living? A Only one.

Q Where is Mr. Thompson?

Q Tenney and Wolfe are dead? A Tenney and Wolfe are dead.

Q How long are they been dead, do you know? A I do not know. Quite a number of years. I didn't live long, never lived long when their death occurred, and the death occurred perhaps a long time before I had knowledge of it. It is generally understood that they are dead.

Q Do you recollect seeing any other copy of the Dawson judgment in the court at that time? A I have been thinking and I don't recall to mind that I saw any other Dawson except and until after they had gone to the country subsequent to the rendition of the judgment.

(At this point a party who had been sitting in the room in which the examination is being held, was called forward, sworn on behalf of applicants, and asked to retire until called.)

BY MR. HUTCHINGS:

Q Mr. Duncan, when did you become clerk of the Terms Commission Court? A It must have been somewhere in December, 1884, at the time the Commission had organized initially at the close of the Council in which they were a quorum.

Q December 1884? A I think so.

Q What are you doing rendering judgments here in your handwriting in 1883? A The Commission held its Court after they were elected sometime.

Q The Court was elected in 1881 wasn't it? A Well, I mean the time, I don't pretend to say when the Court was elected. I might have said at the time I was chosen clerk. I was chosen clerk just at the close of the session of the National Council of that year.

Q '84? A I think it was '84.

Q You entered up this judgment rendered January, 1883? A Yes, that was the session of the Commission.

Q That was before you were clerk of it? A Well I held my clerkship for some time continuously.

Q Well but when you begin to say that you were hair clerk when the Dawson case was passed on? A No, I don't mean to say that.

Q How could you be clerk when the Dawson case was passed on in 1883 when you were not elected until 1884? A I am mistaken in that, '84 comes after '83, - it was the year preceding 1883, it must have been '82.

Q Your first entry in the Dawson case is January 13, 1883, isn't it?

Q I don't recollect what my first entry was. (Attorney shows the record to witness) Yes, that is the entry there on that day.

Q And that was shortly after you became clerk wasn't it? A Yes, shortly after I became clerk.

Q The case had been entered upon the docket before you became clerk? A I think so, yes; it was entered at the previous term of the session of the Commission.

Q In whose handwriting was the names of the three Commissioners signed to that judgment? A Dawson judgment?

(Attorney shows record to witness again) A That is my handwriting.

Q All three names? A All three names.

Q The record there shows that you immediately gave that that day a transcript of the judgment, do you know who signed that? A Signed the transcript?

Q Yes, sir. A I do not remember now, this is, did the writing?

Q Signed the seal on to it? A Yes, that's it.

Q You always signed the names of Jones and Wills didn't you? A I think I did pretty generally. I don't know of their attempting to write their own names.

Q When Mr. Thompson was there didn't he sign his own name? A Sometimes he did, sometimes he simply authorized me to do it.

Q Have you any recollection of his authorizing you to do it except from the fact that you have done it on that record frequently? A I can't recall the particular little real fact of authorization, but I can say positively that, consulting the record, that he authorized me to put his name there.

Q Will you look at the original transcript hereby shown you and referred to in the judgment and say who signed the names of the Commissioners thereto? A (Papers shown to witness) A I signed them there.
Q You recognize that as your handwriting? A I do.
Q What made you when you were testifying at Vinita before Mr. Martin, on looking at the same signatures, and being cross-examined by me, say that it was not your signature and that the signature thereto attached was the signature of Mr. Thompson? A Occurred in this way: I had not seen any of the records in the case for about nineteen years. The exact transaction in the court had vanished about entirely from my memory; I recollected at that time, however, when I gave in my testimony before the Commissioner, Martin, that that was a practice of the Court at the time I served by which I signed the names of the full-blood members of the Commission, and Mr. Thompson either uniformly or occasionally signed his own name. I based my statement in that deposition upon my knowledge of the rule or practice in the Court, without comparing the docket and refreshing my memory. I made an incorrect statement when I said that that was not my handwriting; I am convinced now that it is my handwriting. That is the way it occurred, the way it happened.
Q Then you consider your recollection of the fact that Thompson when he was present and rendering a judgment signed it himself, better than your own knowledge of your own handwriting?
A No, I didn't so regard it. I simply spoke without advisement when I gave in that testimony; I subsequently became better informed and concluded that that was my handwriting and not entered by Mr. Thompson under the rule, but was one of those cases in which he authorized me to do it myself, and I did it.
Q Then you have changed your testimony, because you think you have a better knowledge of the surrounding facts now than you had then, and not from the fact of your judgment on your handwriting at present? A I simply corrected my testimony in reference to my statement in regard to this handwriting, this case.
Q And you wouldn't know then as I understand you whether or not that is your handwriting if it was not refreshed by what you consider to be exterior facts? A I should know it by examining it and thinking over the circumstances, I think I should recognize my own handwriting, but if a question should be propounded instantaneously without any advisement or preconsideration I might make a mistake.
Q You did recognize the names of Thomas Tehee and Alexander Wolfe as being in your handwriting at that time? A I was very clear and positive, and so stated, that the names of those Commissioners were in my handwriting, and I was made certain by reflecting on the rule that they never signed their names with their own hand, but always authorized me to do it. Hence there is no question in my mind in regard to my handwriting in their signatures.
Q And then the third name, right under it, as compared with your admitted handwriting, you had to wait and learn the facts afterwards to determine whether that was your signature or not? A No, I don't think that if I had considered the circumstances, I knew that there was a resemblance; what made me of the opinion that that might have been Mr. Thompson's signature was like this: I knew that he had been in the habit of at least sometimes signing his own name, and I was under the impression-and I do not now think I am much deceived- that his chirography bore at least some resemblance to my own, hence I doubted whether I had signed that name or not on that account.

Q [illegible] fact that [illegible] were [illegible] and not yours, didn't not? A [illegible] not [illegible] I was.

Q And [illegible] the original [illegible] that I stated, that I [illegible] the time I [illegible] was that we die, but [illegible] I was convinced that I [illegible] him.

Q Then you never [illegible] that your testimony [illegible] life [illegible] day before yesterday, and [illegible] signatures? A I don't know that I have thought of it since that time [illegible] contents of day before the [illegible] the docket.

Q [illegible] the only recollection that you have [illegible] aid to your recollection that [illegible] was present when this judgment was rendered was the fact that you saw him [illegible] signed in it, in your handwriting, is it? A [illegible]

Q You can answer that yes or no. A That seeing the handwriting [illegible] recollection [illegible] I recollect now that the commissioners were all present at the time that I signed it, I didn't [illegible] in an out of court at all.

Q [illegible] it in the forenoon now or in the afternoon? A I don't recollect whether it was in the forenoon or afternoon.

Q In recollecting that they were all present when the record was signed, do you mean to say that they were all present when the judgment was rendered? A Yes, that is, you mean when the question of admission or rejection was voted upon?

A Yes. A They were present.

Q Did you write up the record at the time that they rendered the judgment, or make a memorandum of it, and then write up the judgment some days afterward? A The record was not written up [illegible] edically upon the decision of any case, but I wrote up the record after adjournment, generally in the evening, and presented it next day or when the next session was had, for signature; that was the practice.

Q But in this present case you wrote it up the very day that it was rendered didn't you? A I didn't recollect as to that.

Q And have that a transcript the same day it was rendered?

A I don't recollect as to that.

Q And indicated the giving of the transcript on the bottom of the judgment the day it was rendered? A I should say it was given at the date of the transcript.

Q That was a very important thing for you to do in entering up judgment? A To be sure.

Q To notean the bottom that you had given a transcript the same day the judgment was rendered? A No, I don't know that there is anything unusual about that.

Q Any other places in that record or more than one in any event that you had ever done that? A I don't recollect, and I don't recollect of giving anybody else a transcript.

Q That is what I am getting at: you gave them a transcript and wrote up your judgment and everything right away? A Pretty promptly after the decision, whether it was the same day or the evening, and at the next day, I don't recollect.

IT NOW BEING THE HOUR OF NOON, H. K. THE COMMISSION ADJOURNS UNTIL HALF PAST ONE P. M.

AFTERNOON, TIME 2.45 P. M., APPEARANCES same as in forenoon. Dr. W. D. DUNCAN sworn and examined BY MR. INGERSOLL:

Q. Do you see a man who testified here before the Court? A. I don't recollect the distinctly except Dr. Baker. I am sorry I didn't be there at the time of the testimony so the time it took to take it.

Q. The Doctor was about the only distinct witness there was? A. He is the only one now that I can call to mind.

Q. There was probably another old darkey that testified was not there? A. I have no recollection of that fact.

Q. The case was just decided pell-mell on Doctor Baker's testimony, he is about the only man that seen anything about the case? A. I am not certain that Dr. Baker was the only witness, there have been others that are now generally recollecting.

Q. Doctor Baker's testimony was taken down in writing? A. Yes.

Q. There was no anybody else taken down in writing was there? A. All the testimony that was accepted in the case was taken down in writing.

Q. Did you ever see anybody's else testimony in writing except Dr. Baker in that case? A. That is not as I recollect, I don't recollect any other but Dr. Baker.

Q. You know whether that was taken in writing before the trial or at the trial or how was it? A. It was taken in the presence of the three Commissioners during the session of the Court.

Q. You mean the day that the case was decided, or how? A. I do not recollect whether the case was on trial more than one day, but my impression is that it was.

Q. Do you think whether it was the same term of the Court or not? A. I think it was the same term of the Court.

Q. How many terms a year did that Court have? A. When and how did they have? A. I don't recollect of ever serving but one term.

Q. Don't recollect the serving but one term? A. Myself, it was to me so.

Q. You didn't go in until January of 1824 did you, your first record is a record of about the 15th of January 1824, as shown by the book, isn't it? A. I don't recollect in that regard.

Q. How would they act on a testimony in the case, when hearing it, what would they generally do about that? A. I think they decided on the case at the term in which they took testimony.

Q. Can you say whether or not this testimony was taken in the case at the time it was decided or at the same term it was decided, or within a week or two after the time it was decided? A. My best recollection is that it was taken at the term in which it was decided; case was taken on testimony presented and the decision was made at the conclusion of the testimony.

Q. Well now, I see on February 14th, on your docket, the following entry reads: "It is agreed by the parties that this shall finally be heard and determined at the next January term, to-wit, would be January, 1833, if the old, not in present dispute in this case, if not, the case shall be continued to the fifth day term, 1833, at this moment the Court when continues the case till the next January term, 1833." Do I think I would have it you had a

January and September term [illegible] was rendered in the January, 1883 term, your honor's testimony taken during the January 1883 term, at the time this decision was rendered? A. I find it impossible for me to reconstruct those facts that are recorded there, although I can say about that, that the record must be correct statement of the facts, but I cannot recall those facts.

Q. Well there is a record here that shows that it was continued on the 15th day of January, 1883, upon agreement that it should be taken up on the 4th day of October, 1883; your record shows that there was nothing done in the case from January 15th, 1883 until October 4th, 1883; would you say that was correct? A. I should say it was correct if it is as shown on the books; it is described to be a correct entry of the facts.

Q. I will let you see the record for yourself. I don't want to misrepresent your and of it at all. (Handing entry in book to witness.)

A. I can't recall those facts in regard to the argument.

Q. You took down the testimony of the witnesses in court? A. I took it down.

Q. You took down the testimony of Dr. Baker? A. Yes.

Q. He was cross examined by counsel for the nation? A. He so stated.

Q. He was present, he was always present? A. I think I don't recollect. He was present, he was always present; I think likely he was cross examined.

Q. And that testimony was taken at about the time when the judgment was rendered in January, 1883? A. I think it was, by a session in to that effect.

Q. Well the court seems to have been session as to this case from January 15, 1883 to the October 4th, 1883, according to the record. A. (no response.)

Q. You can't recall that? A. No sir, I can't.

Q. Dr. Baker's also testimony is the only one examined? A. No sir, I can't.

Q. And the probability is that he was the only witness examined, isn't it? A. It might have been so, my recollection is that he was regarded as the main witness in the case.

Q. He was quite an old man, about 70 at that time? A. Yes, he was quite old.

BY MR. MCKENZIE:

Q. The testimony of Dr. Arthur Baker, from this record, appears to have been taken on January 14th, 1883; is that correct, so far as you may know, or are able to state? A. Is that Dr. Baker's testimony? (Attorney here shows witness papers.) A. It appears to be, yes. I don't think that was the testimony that the case was decided upon, because his testimony was taken orally before the commission, and I wrote it down; it was not in writing. (Attorney shows other papers to witness.)

A. Well, all I know about this is what I stated before, I don't recall those facts, but whatever the record says I say that the record was and is correct, according to the fact. (Witness refers to entry of the testimony referring to to refresh his memory.) I don't understand it, I never clearly understanding, but I gather from the subject matter of that testimony that it is in accord with Doctor Baker's statement, in exactly word for word I am not able to say, but that is the tenor of the testimony.

BY MR. MCKENZIE:

Q. Is the testimony you answered to, of course all the material facts that you could in truth, it is long hence? A. Yes, very nearly word for word, as I could do it, so with no more than a little variation made necessary by the length of the witness' statement.

BY MR. McKENNON: Applicants object to all of the witness' testimony relating to the method of taking the testimony of witnesses at the trial, the character and effect of that testimony, and the number of witnesses, except as far as the same may be used for the purpose of testing the memory of the witness, because the same is incompetent, irrelevant and immaterial.

B. F. FORTNER, being first duly sworn, and being examined testified as follows:

BY MR. McKENNON:

Q What is your name? A B. F. Fortner.
Q What is your age? A 54.
Q You are a physician are you not? A I am.
Q Where do you reside? A Vinita, Indian Territory.
Q Do you hold any official position in your position? A Yes, I am President of the National Board of Health, Cherokee National Board of Health; and member of the Legislative Committee of the Indian Territory and of the American Medical Association,-those are some, and the most important positions I hold at this time.
Q Are you a Cherokee citizen? A I am.
Q By blood or intermarriage? A Intermarriage.
Q Your wife is a citizen? A Yes, sir.
Q Do you know D. W. C. Duncan? A I do.
Q How long have you known him? A About twelve or fifteen years, about twelve years I should say.
Q Do you know his general reputation in the community where he resides for honesty and uprightness of character? A I do, I think.
Q Is that good or bad? A It is good.
Q Do you know Campbell Taylor? A I do.
Q How long have you known him? A About six or eight years, don't know exactly how long; known of him for ten years and personally I have known him about my six or eight years.
Q Do you know his general reputation for truth and veracity? A I do.
Q Is that good or bad? A It is bad.

BY MR. HASTINGS:

Q Mr. Duncan belongs to the same church you belong to? A Yes, sir.
Q And has for a number of years? A Well now I say I think he does; I have always so understood.
Q Don't keep up with all your members? A No, but he has attended church there and my impression has been that he is a member of the church.
Q You didn't have any business before the Citizenship Court of which he was clerk, did you? A No, sir, not that I know of.
Q You was not at Tahlequah while he was clerk of a Court from 1882 to '3? A I don't believe I was.
Q Never had any business before that Court? A Had no business before them, not while he was Clerk to my knowledge.

BY MR. McKENNON:

Q You spoke of his membership in the church; he is in good standing as a member of the church is he? A Yes, sir.
Q I will ask you if Campbell Taylor's reputation isn't notoriously bad? A Yes, I have so understood it.

BY MR. HASTINGS:

Q I will ask you if it was notoriously bad in 1883, when these people employed him to represent them before the Court? A That was before my knowledge of him.

Q But so far as you know his bad reputation dates back as far as you know him? A So far as I know him.

G. W. MILLER, being duly sworn and being examined, testified as follows:

BY MR. McKENNON:

Q What is your name? A G. W. Miller.
Q What is your age, Mr. Miller? A 61.
Q Where do you reside? A Vinita.
Q How long have you lived there? A Well I have lived there altogether about 18 years I guess, or 19.
Q Are you a citizen of the Cherokee Nation? A No, sir.
Q What is your business? A Real estate and insurance agent.
Q Do you know B. F. D. Duncan? A Yes, sir.
Q How long have you known him? A I have known him twenty years.
Q Do you know his general reputation for honesty and uprightness of character where he lives? A Why yes sir.
Q Is that good or bad? A It is good, so far as I know.
Q Do you know Campbell Taylor? A Yes, sir.
Q How long have you known him? A Well I have known him 18 or 20 years, I guess.
Q Do you know his general reputation for truth and honesty? A Well yes.
Q Is that good or bad? A Well, it is bad, I think.

ATTORNEYS FOR CHEROKEE NATION waive cross examination.

V. M. CURTIS, being first duly sworn and being examined, testified as follows:

BY MR. McKENNON:

Q What is your name? A V. M. Curtis.
Q How old are you, Mr. Curtis? A 56.
Q Where do you reside? A Atoka, Indian Territory.
Q How long have you lived in the Indian Territory? A 30 years.
Q What is your business? A Lumber business.
Q Do you know B. F. D. Duncan? A I do.
Q How long have you known him? A About 30 years.
Q You know his general reputation for honesty and uprightness of character in the community where he lives? A I do.
Q Is that good or bad? A As good as any man's.
Q Do you know Campbell Taylor? A I do.
Q How long have you known him? A Some 20 years, I suppose.
Q Do you know his general reputation for truth and integrity and honesty? A Yes sir.
Q Is that good or bad? A Bad.
Q Is it notoriously bad? A Yes.
Q Did you ever know Dr. Baker, Dr. A. B. Baker, of Berryville, Arkansas? A Yes sir, I knew him in '68 and '69.
Q Where? A Over at Berryville; I ran a saw mill in that country at Berryville.
Q Did you know his general reputation as far as honesty and uprightness of character and truthfulness? A Yes sir.
Q Is that good or bad? A Good sir. Good as any man's; he is a good Christian gentleman.
Q Did you know him well enough to know his habits of life? A Yes sir.
Q Was he in the habit of taking liquor, drinking liquor? A Not that I know, of sir, I never saw him take a drink in my life.

Q. Was his character such as to preclude any such charge [illegible]
[illegible]? A. It was, yes sir.

BY MR. KOCHINES:

Q. How long did you know Dr. Baker? A. Two years.
Q. What does he do there? A. He was an old gentleman then, he lived right in the suburbs of Dorrville, Dr. Baker.
Q. How old do you think he was then? A. I think it must have been 65 or 70 years old. An old gentleman.
Q. Dr. [illegible] is that, sir? A. No sir, it was in '69 and '70. We two years that I lived over there.
Q. He had retired from practice? A. Yes, sir.
Q. Did he have any family? A. Yes, sir.
Q. What family did he have? A. I don't know how many family he had. I was not acquainted with the old gentleman.
Q. He wasn't doing any business with anybody? A. No sir.
Q. And his character was never called in question one way or the other, was it? A. No sir, no sir.
Q. Dr. Neil Taylor was a notorious rascal pretty much ever since you knew him, it wasn't [illegible]? A. Yes sir, I never knew much good of him.
Q. And he was a man who had disappeared from the [illegible] to work it, because he was notoriously a rascal, isn't it sing it? A. Well a great deal of it was got sir.
Q. It was a notorious thing that they had a [illegible] they would get him, it would sort of give a good a [illegible] to have Carroll around it? A. Yes, that would be all.
Q. You never knew anything about Mr. Duncan's connection with citizenship matters? A. No sir, never did.
Q. You never heard about his pleading some of the recent of citizenship cases? A. No sir, never did.
Q. You have heard lots of talk about this Duncan case? A. Yes sir.
Q. Rumor has it all around that somebody was doing something wrong? A. Yes sir.
Q. You never accused sir of it you think? A. I never heard him accused of it, no sir.
Q. That rumor got out from the first day they were admitted right up to the present? A. Well I don't know not from the first day, I have heard it for a good while though.
Q. But you never knew who had fixed it on? A. No sir.
Q. They have been a pretty strong family up there in that country haven't they, pretty large family? A. Yes sir.
Q. Cast a good many votes up there? A. Yes sir.
Q. Did you ever know of the Doctor's testifying any in court, Dr. Baker? A. No sir, I never did.
Q. What would you think of a man who would testify that he knew a girl that was single in 1825 when the youngest of her seven children was born in 1837, what would you think, would you think that was a statement to be made by a man who was truthful? A. [illegible]

BY MR. McKENNON: Applicants object to the question because it is wholly incompetent, and not based upon any proof or admitted facts in the case, and it is wholly immaterial and incompetent.

Do you think that was a statement that would be made by a truthful man? A. (No response.)
Q. You know him in '88? A. Yes sir.
Q. He was quite an old, decrepit man? A. Yes sir, quite old, '68 and '69.

Q 14 years from that time he was liable to be in his dotage?
A I don't know, he was an old man when I knew him.
Q He was too old to work, and retired from business then? A Well he did not a good deal, but wasn't doing any business particular that I knew of.
Q He could have been pretty old 14 years from that time? A Yes, he would be getting old.

D. H. MARRS, being first duly sworn and being examined, testified as follows:

BY MR. McKENNON:

Q What is your name? A D. H. Marrs.
Q What is your age, Mr. Marrs? A I am 46.
Q What is your business? A I am publishing a newspaper.
Q What paper? A "The Indian Citizen."
Q Are you Editor of that paper? A Yes sir.
Q You live at Vinita, don't? A Yes sir.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood or intermarriage? A Intermarriage.
Q Do you know D. C. Duncan? A I do.
Q How long have you known him? A 18 or 19 years.
Q Do you know his general reputation in the community where he lives for honesty and uprightness of character? A Yes sir.
Q Is that good or bad? A Good.
Q Do you know Campbell Taylor? A Yes sir.
Q How long have you known him? A Why 15 years or longer.
Q Do you know his general reputation for truth and honesty in the community? A His general reputation, yes sir.
Q Is it good or bad? A Well it is not good.
Q Is it bad? A Well I suppose it must be bad then.

BY MR. HUTCHINGS:

Q How long has Campbell's reputation been a bad, Mr. Marrs, quite a good while, hasn't it? A Why I think so, yes sir.
Q And it kind of begun mostly with this citizenship business? A Yes, so far as I know it did, yes sir.
Q Campbell got so many bad citizenship cases and through the mails, and they finally had him up about it, had a good deal of stir about it? A Yes sir.
Q And some of that stir was sort of occasioned by his helping the Dawsons in wasn't it? A I don't know, I don't know whether he helped the Dawsons.
Q Was not that one of the principal cases that brought him into notoriety? A I don't know whether he had that case or not. I know he had a great many cases.
Q That was the principal thing that commenced the firm Campbell out, was citizenship cases here? A I think that is what got him into the most trouble.
Q I say before that time nobody had talked much about Campbell one way or another, and it became pretty general that Campbell was handling shady citizenship cases, and he got a bad reputation from that? A Yes sir, I think that was the impression generally.
Q How Mr. Duncan's connection with the Dawson case sort of been kept back, people didn't talk much about it? A I never heard anything about it, as I know of.
Q You have heard that there had been something about the Dawson case, that has been a notorious thing? A Oh it has been a notorious case, yes sir.
Q Well the fact of Mr. Duncan's reputation for uprightness has been somewhat given by himself, he confesses it frequently? A How is that?

Q His reputation for truthfulness is as good given by witnesses as almost any one I know of. Do you mean to confess that very often his only desire is to
A I don't know whether I am qualified to answer that.
Q Speak the truth and honesty, he does that very frequently?
A No sir, not that I know of.
Q Doesn't he drink a good deal about that sort of thing? A About his mother-law.
Q The all-powerful is his own integrity? A I don't remember that he does.
Q You were not down the citizenship courts along in 1897 and '8 were you? A No sir.
Q Don't remember about the talk that was going on around the Capitol over there about the citizenship cases? A No sir, don't remember anything special as I know of. I remember the citizenship court going on at different times.
Q How far were you living from Tahlequah in '87? A Well, I lived since in Vinita, I guess it is sixty miles probably.
Q Have you lived any nearer Tahlequah since that time? A No sir, never have.

If, A. Butler, being duly sworn and been examined testified as follows:

BY E.B. KENNON:

Q What is your name? A A. Butler.
Q You are a minister of the Gospel? A Yes sir.
Q M. E. Church, South? A Yes sir.
Q How long have you been a minister? A I have been a minister a young man.
Q Did you ever live at Vinita? A Yes sir.
Q How long? A I was there four years, sir.
Q Do you know D. C. Duncan? A I do.
Q How long have you known him? A I have known Mr. Duncan 21 years.
Q Do you know his general reputation for honesty and good number of character? A I do.
Q Is that good or not? A Good, so far as I know.
Q You have had opportunity of knowing? A Yes sir.

BY MR. HUTCHINGS:

Q Mr. Duncan was a member of your church? A Yes sir.
Q That is the principal way you had of coming in contact with him? A Yes sir, he was a member of my official board.
Q His connection with citizenship cases that were decided by the court of which he was clerk was never brought up in your presence anywhere? A No sir.
Q Or never discussed? A No sir, I know nothing about his connection with it.
Q You didn't live about or near Tahlequah in '87? A Yes sir, I was Pastor of the Methodist Church in Great Tahlequah.
Q Did you hear about the Dawson case, and other cases written over there by the citizenship court? A No sir, I know nothing about the cases. I remember when the commission was in session, and I remember that he was there of the commission, but knew nothing about the cases that were decided at all.
Q Never heard anybody discuss the cases that were decided? A No sir.

THOMAS M. CHANDLER, being first duly sworn and being examined, testified as follows:

BY MR. MORRISON:

Q What is your name? A Thomas M. Chandler.
Q What is your age, Mr. Chandler? A I am 50.
Q What is your business? A Deputy clerk of the United States Court at Vinita.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know C. T. C. Lecant? A Yes sir.
Q How long have you known him? A Let me see, I have known him about nine or ten years.
Q You know his general reputation for honesty and veracity among the people of character in the community where he lives? A Yes sir.
Q Is it good or bad? A Good as far as I know.
Q Do you know Campbell Taylor? A Yes sir.
Q How long have you been with him? A I think about 15 years.
Q Do you know his general reputation for truth and honesty? A Yes sir.
Q Is it good or bad? A Bad as far as I know.

BY MR. BURGESS:

Q How did Campbell Taylor get a bad reputation? A Well sir, I don't know how he did.
Q You never knew him until 1885? A Well I never knew his personality. I heard of him before that.
Q He had a bad reputation before 1885? A Yes sir.
Q Bad reputation was back yonder? A First I remember I ever heard of him I heard he was coming out of his, from I was a kid.
Q And everybody all over around the Nation and they talking at all then Campbell had a bad reputation? A Yes sir, ever so far back as '79 or '80, that is as far back as I remember; I think I heard it spoken of in '80, I think that's about the time.
Q And Campbell got a very bad reputation in '80 and '81 when he begun to have them citizenship cases? A Yes sir.
Q You heard his character of his personality and ability to settle for these businesses? A Yes sir, I heard of him being in the Fort Smith Jail or that business.
Q Citizens of the Nation talked a good deal about Campbell's being in those bad citizenship cases? A Yes sir.
And I also heard he had a bad reputation for paying his debts, along about the same time.
Q You don't know that he had the money, he might not have had the money to pay his debts? A No sir.
Q He could have been out of bad citizenship cases? A Yes sir, I suppose he could.
Q You never heard Mr. Duncan's name mentioned before in connection with the Dawson case, citizenship cases? A No sir, I don't think I have, I may have, but I don't remember hearing it.
Q General impression that somebody had done something wrong with that matter, citizenship cases? A I heard there was something wrong in connection with the Dawson citizenship case.
Q Must he have been in notority over which they were arrested? A Yes sir, I have heard it rumored around over the country that he was the man.

Q There is a pretty large voting capacity in this and that matter you never investigate? A I don't know about that, I don't think it was ever investigated, I never heard of it.

Q So they never made any endeavor to find out who the [illegible]?
A No sir.
Q Where did you live in 1877? A In 1877 I lived out on Big Creek about 12 miles south-east of Vinita.
Q How far from Chelsea was that? A About 65 or 70 miles, I suppose.
Q You never were around before the Cherokee courts any during that time? A No sir.
Q You don't know that Mr. or Mrs. Campbell had lost a bad case or not at that time? A No sir, I do not, at that time.

BY MR. McKENNON: A I think I object to all of the testimony of this witness as to what I meant by any [illegible], about the character of the agent case, because the case is hearsay, immaterial, irrelevant and incompetent.

A. B. McKENNON, of Counsel for Applicants, being first duly sworn, takes the following; states that:

I been a resident of Carroll County, Arkansas, since in 1880. I was intimately acquainted with Doctor Arthur Baker, for many years. Knew him as well as I did anyone else. He was a gentleman of the highest Christian character, as recognized by everybody who knew him. He was a sober man, and never drank liquor. I am interested more in vindication of that good man's memory than for any other reason, because the imputation against his character is false.

BY MR. HASTINGS:
Q How long did you know him? A I resided in Carroll County until 1887 when I moved to Johnson County, Arkansas; during the year I was away from home, but I knew him intimately every year that I resided in Carroll County.
Q Did you know his place 'ere? A Yes sir, I have been his personal friend. I knew whatever living in the town in which he lived; my relations to him were such as to cause me always to inquire about Doctor Baker; I knew his reputation I think as well after I left there as I did when I lived there.
Q Did you know those facts in 1896 when you were a member of this Commission? A Yes sir, I have known them all my life as I know them now.
Q Did you know that when you as a member of this Commission passed on the Irene J. Keene case? A I knew it every day of my life, in 1896 as well as now.
Q Suppose that Doctor Arthur Baker's statement should assert that he was born in the year 1809, and suppose he said when he was 15 or 16 years of age that Ann Truett the wife of Samuel Dawson, was a grown up girl going to school, then the other undisputed evidence shows that she had married Sam Dawson prior to that time and had seven children, the youngest of them was born in '33, how would you reconcile that with a man who was an honest man and knew the facts in the case? A Whatever Dr. Baker stated he honestly believed, whether it was right or wrong; whether it was error or truth, he honestly believed it, and stated it as he believed it.
Q He was capable of being in error? A Every man is.
Q I say he was? A Yes sir, just as you and I and every man, he was; I merely state as to his high character, which could be proven, by every man who knows it. I think, I know it.
Q The Commission rejected Irene J. Keene in 1896, of which you were a member? A I don't remember anything about that personally.

TESTIMONY ON BEHALF OF CHEROKEE NATION.

DAVID MEREDITH, being first duly sworn, and being examined, testified as follows:
BY MR. HUTCHINGS:
Q State your name? A David Meredith.
Q Where do you reside? A Vinita.
Q How old are you? A 60 years old.
Q Did you know James Dawson? A Yes sir.
Q How long have you known him? A I knew him probably a year.
Q Did you ever have any talk with him about his citizenship case?
A Very little.
Q You were at one time an applicant before the Dawes Commission for citizenship were you not? A Yes sir.
Q Tell what did Mr. Dawson tell you with reference to his citizenship, as to the cost of getting it, if anything? A Well he told me it cost him eleven or twelve hundred dollars to get his case through.
Q Where did this conversation take place? A At Afton.
Q At what time? A It was in '32, early in '33.
BY MR. McKENNON:
Q Where were you when he told you that? A I was working on a house in Afton, building a house.
Q Where house? A S. S. Hines.
Q Who else was there? A Hines was present.
Q There is her? A At Afton.
Q What age was he, Mr. Dawson at that time? A I don't know, he was very old, probably 75 years old.
Q Was he not a very feeble man? A Yes sir.
Q Hardly able to get around? A No sir.
Q Was he not then regarded as feeble minded old man? A I don't know whether he was so regarded or not.
Q You don't know what he had to do with the case, in fact, himself, do you? A No, I judge it was himself and family that went that much to get through attorney's fees, etc. That is the way I took it anyway.
Q You were an applicant yourself were you not? A Yes sir.
Q When? A At that time.
Q Before the Cherokee authorities? A Yes sir.
Q They rejected you? A Yes sir.
Q You were an applicant then before the Dawes Commission were you?
A Yes sir, been rejected over since.
Q Are you still an applicant? A Yes sir.
Q Still trying to get in? A Yes sir.
Q Claiming by blood? A Yes sir.
Q How long have you been living in the Cherokee Nation? A 15 years.
Q Where did you come from? A Indiana.
Q Claiming to be a Cherokee citizen? A Yes sir.
Q Indian? A Yes sir.
Q James Dawson is dead is he? A Yes sir.
Q How long he has been dead? A I think he died probably within two years after that.

TESTIMONY IN IN ON BEHALF OF THE APPLICANTS.

F. M. DAWSON, being re-called and further examined, testified as follows:
BY MR. McKENNON:
F. M. Dawson? A Yes sir.

Q. Mr. Dawson, what number of cases do you recall to have been brought in this court that did not come from Lakers Dawson, and Lee, or men in their family, be charged with disorderly?
A. My father was never in a fellow case.
Q. Well did he? A. Lakers Dawson, they all knew his by name.
Q. When was that? A. In '81 and '82, as I remember, or '82, I don't know which it was in '81 or '82.
Q. Mr. You said your dad, at that time? A. My brother and you, the Lakers, or Dawson and Joel Lakers, it was all the same thing. That is my understanding.
Q. Joel Lakers, was a member and a clerk of the Cherokee Nation?
A. Yes sir.
Q. Before what court was that clerk? A. My understanding was the road clerk of the county meetings and Joel was what court he was clerk of.
Q. He was clerk of the county at that time? A. Yes sir, of the citizenship court, that's my understanding.
Q. Have you been here once or twice at this time, if you remember? A. I have been back here and talking together down there at this time, that is.
Q. Where did you live? A. I live at Tahlequah, Ark. Cherokee.
Q. Where did you live in the Cherokee Nation? A. I believe I was back in Delaware, I live in Sixteen.
Q. Was your mother living? A. I don't think she was, I don't remember.
Q. Well now in any case of the court or session of the Commission at any time after you came down here was you called for application until after it was argued? A. No sir, I never let it any time until that case. A. Called.
Q. You commenced the business from after I ask did you not? A. Yes sir.
Q. The court finally determined it against Joel? A. Yes, yes sir, the 11th day as I remember.
Q. Were you present at that decision? A. Yes sir.
Q. Was there any decision of that case other than the one of record here? A. I never heard of it if there was.
Q. Was the judgment entered in that case as recorded in the record book of the Commission and in the clerk's of the Nation? Is that a true judgment that is entered in that case so far as you know?
A. Yes sir, so far as I know, I never was any I never heard of it in that case.
Q. You think of no decision against you in the court? A. No sir.
Q. You was attorney employed at the beginning? A. I employed A. J. Redman.
Q. Was he a Cherokee citizen? A. Yes sir, I think so.
Q. Where did he live? A. In Clarence, as I understand.
Q. Was he present at any time before the Commission? A. I never saw him, he never was at the A before the Commission.
Q. Did you pay his fee? A. Yes sir.
Q. How much? A. Fifty dollars.
Q. Did he have regular fee agreement? A. If he ever did I never knew it.
Q. Well then who did you believe? A. My brother employed Joel Bryant.
Q. Was he a Cherokee citizen?
A. That is my understanding.
Q. Was he a full blood Cherokee citizen? A. Yes sir.
Q. What was he did is wanted? A. Well sir, I don't know whether he went and lay in wait, only he met me a time or two at Tahlequah, and he was before the Commission, whether he rendered any services

or not I don't know; he was generally always at Washington City during the Text down there.

Q Well what did he do about it? A I don't know, I couldn't say whether he done anything about it. That is Mr. Bryant, he was always gone.

Q What next was done about the employment of an attorney? A Why I got a letter from Joel Brown that he was going to Washington City and for me to come down in January Text and Campbell Taylor would see to my claim before the court.

Q Did he say that he had engaged the services of Campbell Taylor the attorney, to attend to it in his absence? A Yes sir, in his absence.

Q Have you got that letter? A I don't think I got the letter.

Q Well what did you do then? A Why from the time on I come down on the duty to Muskogee here and I went over from here to Fort Gibson and I went down to see Uncle Houston Benge and stayed all night with him; it was very cold weather, and I got him to go over and submit my case to the court; I went over one day and the next day Uncle Houston Benge come over and the next morning after he come over the case was submitted.

Q Did he submit the case? A Yes sir, he told me so.

Q For you? A Yes sir.

Q Were you present? A I was present until they went to take the vote on the case and then we was drove out of their room and they had a secret session, acting on the case.

Q Was Houston Benge present with you? A Yes sir.

Q Were you in the court when he submitted it to them? A Yes sir, when he made his argument.

Q He made an argument before the Commission? A Yes sir.

Q Was the decision rendered on that day? A Yes sir.

Q How long after he had his argument and submitted the case? A Was not but a little bit; when we were drove out of the house the first time before they went into secret session they called me to set up the cigars to the court and the crowd in the house; after the decision was rendered I was to set up the cigars, and everybody come to me and told me to go and get the cigars and I done so.

Q And you took the cigars there and all? A Yes sir, everybody, the attorneys and all that was in the house, all had a big smoke.

Q Did they then announce their finding in the case? A Yes sir, they told me that I was granted my citizenship right and by the Commission.

Q What did you do about it then? A Why the Clerk wrote me out my certificate.

Q That same day? A That same day.

Q What arrangements did you make with Mr. Benge about his fee, and what was the amount of his fee? A There was no arrangement made until we got up there and he submitted on my case; then he wanted me to pay, he charged me fifty dollars, that was his fee.

Q What was the agreement about the matter, the manner in which that fee should be paid? A My brother in Texas was to pay it.

Q Were you to write or was he to write? A He was to write for it.

Q Did your brother in Texas ever pay his fee of fifty dollars? A Yes sir.

Q Was that all that was to be paid? A All he ever to have; all he charged me.

Q You heard his statement when he gave his deposition at Fort Gibson the other day did you not? A Yes sir.

Q. [illegible] A. [illegible]
went back to Indian [illegible] and No sir.
Q. [illegible] firm collision after [illegible] to
Gallipolis, [illegible] A. I never did [illegible] in my life.
Q. [illegible] A. I went
back home to [illegible].
Q. By what route? A. I came to Silo Springs and on by Spring Dale
[illegible] to Pagoda, took the railroad there and went on by
Spring Dale and Green Springs to Silo.
Q. You did not return to Fort Gibson with Lucinda Jones, as
he stated? A. No sir, I did not.
Q. Did you go to Fort Gibson? A. Well I thought
maybe the dollars [illegible] and I did not stand a much going out
to Fort Gibson when I was boarding at, I could go to Silo Springs
and I took by that route and then there was a road going by
Spring Dale, that was the most direct route.
Q. That was the most direct route for you to take, was it not? A. Yes
sir.
Q. And the shortest? A. And the shortest route.
Q. Had you been no in a hurry to Fort Gibson you would have been
going directly down from Muskogee? A. Yes sir.
Q. Your home at Muskogee, did not be sufficient and it not?
A. Yes sir, little worth the most, [illegible] our best.
Q. While Fort Gibson is least the best [illegible] of southwest.
Q. You heard [illegible] to Fort Gibson with [illegible]
and [illegible] your status [illegible] to reach the court
[illegible] dollars, did you [illegible]? A. I [illegible] I
didn't have the five hundred dollars to reach him.
Q. Did he write at Tahlequah in the court room on the evening
before this [illegible] and [illegible] to your [illegible], tell you that
the court had [illegible] a judgment against you? A. No sir.
Q. And did you [illegible] to him, you could fix that? A. I had no such
conversation with him.
Q. Did you pay to H. F. C. Duncan, who was the Clerk of the Court
any sum of money, or agree to pay him any sum of money, directly
or through any other person for any services he might render you
by way of influencing the court to decide in your favor? A. No
sir.
Q. Or for any other purpose? A. No sir.
Q. Did you pay him any money after that through Campbell Taylor?
A. Yes sir.
Q. What amount? A. 20 or 25 dollars, I don't know which it was.
Q. State what that money was paid for? A. For a claim.
Q. What do you mean by a claim? A. Claim on the public domain, the
land claim, he said he was close to me, said he 20 or 25 dollars for his
claim [illegible] on the Cherokee Public Domain.
Q. What did Campbell Taylor have to do with your case?
A. He had nothing to do with it.
Q. Did you agree to pay him any money for his services as an
attorney? A. No sir.
Q. Did he perform any services in that case for you as a representative
of Mr. Bryant? A. No sir.
Q. Did you pay him any money? A. Yes sir.
Q. On that account? A. No sir. He came to me and said he had the claim
against the Indian Department and wanted me to pay him the money and
I done so.
Q. That amount? A. Hundred dollars.

Q [illegible] I [illegible] I, [illegible] Joel Bryant.
Q Did [illegible] money to Joel Bryant, or [illegible]? A Joel Bryant [illegible] Joel Bryant [illegible] D. Dyson paid Joel Bryant; after [illegible] Campbell Taylor, [illegible] twenty dollars or twenty-five dollars; that is all ever got back from him.
Q How did you get [illegible] 25 dollars out of it for Dendant? A I kept after him and telling him to pay that money back to me, he rendered no services [illegible] All and the money was to go to Joel Bryant, and I finally [illegible] twenty or twenty-five dollars; that is all I ever did get back.
Q The amount that he paid to Duncan? A Yes sir.
Q Was this money paid to him, this one hundred dollars, while you were there at the time the judgment was rendered, or was it sent to him afterwards? A I think it was paid then, as well as I remember about it.
Q You think it was paid then? A Yes sir, that's my recollection now.
Q Did you send him [illegible] dollars after you got home? There's a sequent to the rendering of that judgment, after it was rendered I recall, directly [illegible] fifty dollars or what or any other sum to D. W. C. Duncan? A No sir.
Q Did you send him a second one hundred dollars in a [illegible] direction? A No sir.
Q Mr. Duncan, [illegible] about [illegible] cost your family in all to obtain their office with the Chero-ee Nation under this judgment? A Pretty [illegible] it I do.
Q Well about what do? A About five hundred dollars, pretty near 500 dollars. That is what I considered, I was beat out of some of my money, and I was beat out of and expenses.
Q Now take a statement of what that money was paid for and how, so far as you remember, it was that now? Tell the first fifty dollars Duncan got; the next fifty dollars Duncan got; that was the attorneys fees; I speak of the attorneys fees now; the next money was the hundred that Campbell Taylor got; the next attorney fees was Bryant's one hundred dollars.
Q Was that all the attorney's fees? A I think it was, no, wait, I paid Ross 15 dollars for taking Baker's deposition.

Q Which Ross was that? A The old Chief, Will Ross I think was his name, William P. Ross.
Q He then, the Chief William P. Ross for taking the deposition of Dr. Baker charged you fifteen dollars? A Yes sir.
Q Do you mean by that that he acted as your attorney and examined him? A Yes sir.
He examined Mr. before the Commission, and his statements.
Q What other attorneys were there present? A None of them was present.
Q Well now, go on? A For the expenses of taking Dr. Baker and he was a Doctor, as well as I remember he charged me 5 dollars a day and I more time and his expenses down there; we got through in a hurry from Bentonville, Arkansas, to Tahlequah, and the board and expenses and all I think was about 75 dollars that trip, or taking near it. Maybe a little over that.
Q Did you pay his board? A I paid him five dollars a day for his time and then his expenses.

Q Well? A Well I made several trips out here at different times, to Tahlequah before the Commission, and back, three or four trips as well as I remember now, cost me 20 or 25 dollars each trip, as I remember about it.
Q Do you remember now any trips aside from the one in which you brought Dr. Baker? A No, I think there was probably three trips I think it was, maybe four, and then I made one trip to Claremore to see A. H. Norwood.
Q What did that trip cost you? A I don't remember what it cost; I went in a wagon down there.
Q You went through the employee range, went by railroad; what did that trip cost you? A I don't remember that it was, whether it was 21 dollars or 31 dollars, one of the two, I don't remember which it was; Joe Dawson, my brother was in the money, it was either 21 or 31 dollars.
Q Now then is there any other expense that you know of that was paid by you or your family, any members of your family, other than that you have mentioned? A I don't remember any other now; I can't call to my memory right now.
Q What was the condition of the members of your family generally now, financially, at that time? A Well we were considered poor people; I don't know, we didn't have much money, scarcely any.
Q Was there any one of them that was better off than the others, and if so, which one? A I suppose Elbert Dawson was better off than the others, Buck Dawson.
Q Do you know how much Buck Dawson paid of these expenses? A I don't think he paid, he paid the Benge debt and the Bright debt, I think it was.
Q That is one hundred and fifty dollars? A Yes sir, that he came up on one trip and taken some evidence with Joel Bryant, Joel Bryant was Clerk of the Court before this Tahlequah Court, I don't know that that most did.
Q Came up he went and got testimony? A Yes, came up and went back to Texas. Filed his claim and took some testimony and went back to Texas and I didn't see him.
Q Did that testimony include Dr. Baker's testimony? A No sir.
Q You know how many witnesses were examined then? A I only know what he told me.
Q How many? A Four witnesses.
Q You know whether they were residents of the Cherokee Nation or not? A He told me they was.
Q Were you present on that trip in which he came there and took that testimony? A No, I met him there and then I went back home and left him at Tahlequah.
Q He had taken the testimony before you left him or afterwards? A He taken it afterwards; that was my understanding.
Q Did Buck furnish only the one hundred fifty dollars that you now remember? A I think it was.
Q And the expense of taking these witness up there? A Yes sir.
Q Who else furnished money out of the members of your family? A My brothers and father lived down in Berryville, we and my brother-in-law, Blassingame, we all chipped in together a few dollars from each family.
Q You heard the statement of C. C. Brought that in June 1907 you told him that it had cost you 700 dollars, did you make any such statement to him? A I never did.
Q And that you paid one witness 300 dollars? A I never made any such statement.

Q Did you pay any witness any such sum? A No sir, I paid Dr. Baker for his time; he said his time was worth 5 dollars a day, for him, and I paid it.
Q Did you pay any other witness any more than that? A No sir, he was the only witness I had in court there in my case.
Q Well the Robert Dawson case? A Yes sir.
Q He says that you told him this in your house there on your place, did you have any house there in June 1883? A I was not living on my farm at that time.
Q Did you have any farm? A Didn't have any.
Q When did you build a house there? A I built a house on the farm I live in now by Mr. Brought. I moved on the farm the last of July, 1883, and I camped in my wagon.
Q What did you do? A I went to the timber and cut poles and hauled them out and made me a log cabin on the place by a spring near Mr. Brought.
Q About what time did you finish that house? A It was in September.
Q How long after you finished that house until you brought your family out? A I finished it up and got it covered and the floor in it and I went back to Eureka Springs after my wife.
Q What family did you have then? A I had my wife and she had one child; but my oldest children, by my first wife were with me in the Territory, camping with me; three little boys and one girl were with me, and one girl back in Arkansas.
Q Are you and C. G. Brought on good terms? A No sir.
Q What has been the character of the trouble between you? A Trouble over our places first started it.
Q When did it begin? A As soon as I got back from Arkansas he commenced kinder crowding me out to take my farm away from me, and we have been in a racket ever since.
Q Then his statement that you were on friendly terms, is it correct or not? A No sir, it ain't correct.
Q He and you have never been friendly neighbors then since you first came back from Arkansas and settled in the Territory? A I don't remember ever being in his house; I never was in his house.
Q Have you had law suits with each other? A Yes sir.
Q How many? A I don't know that we had any particular law suits, but I have had law suits and he was been a witness against me.
Q What was your last trouble with him, when I mean? A Along last fall.
Q That was when your boys had a little racket and he had your boy arrested? A Yes sir.
Q What was the age of those boys? A Eleven years old.
Q He had him arrested down at Vinita? A Yes sir, had him arrested and carried before the Commissioner at Vinita.
Q He was discharged on account of his age? A Yes sir.
Q Jack Dawson is dead is he? A Yes sir.
Q How long has he been dead? A Three years, little over three years.
Q And James Dawson is dead? A Yes sir.
Q Is your father, Robert Dawson living? A No sir.
Q When did James Dawson die? A I don't remember, been dead several years, I don't remember how long, 6 or 7 years, I couldn't state.
Q When did your father, Robert Dawson die? A I believe it was in '87 as I remember now, I dont be positive.
Q Had all these moved to the Cherokee Nation before their death? A No sir, father died in Arkansas.

Q Those that lived here in the Nation they lived here in the Nation but went back to Arkansas and died there? A Well the rest of my folks all lived here. That was James Dawson and Bud Dawson.
Q Robert Dawson, your father, never did move to the Territory, did he? A No.
Q Did you hear the statement of the witness heavent this morning, that about the time of hearing of the James Dawson case, at a negro church at night James Dawson came down there with someone else I a introduced to him, and he loaned him ten dollars; did you hear that statement this morning? A I heard the statement, Yes sir, I heard it.
Q He says that man James Dawson was 35 or 40 years old; was there any James Dawson living belonging to your family at that time of any such age? A No sir.
Q How many James Dawson's were there belonging to your family?
A There was my Uncle James Dawson and a brother James Dawson, the Doctor here.
Q How old was your Brother James Dawson then? A He was a tolerable old man, I don't know his age.
Q About what age? A Might have been 60.
Q Between 60 and 70? A Yes sir.
Q What was the age of your brother James? A At that time?
Q Yes sir, in '84? A In '84 I suppose he was about 18, somewhere like that.
Q Had he anything to do with the James Dawson case? A No sir.
Q Was he present at the time that the James Dawson case was under consideration? A No sir.
Q Was James Dawson, your uncle James Dawson, present at any time during the consideration of his case? A No sir.
Q He never was present? A No sir, if Uncle Jim Dawson was ever in Tahlequah I never knew it.
Q Who conducted the prosecution of the James Dawson case before the Cherokee Citizenship Commission, who conducted it? A The James Dawson case?
Q Yes sir? A I think James Low and Bill Jackson and Campbell Taylor.
Q Were you acting with them? A Yes sir.
Q They employed Campbell Taylor? A Yes sir.
Q Then there was no James Dawson present during that session of the Commission? A No sir.
Q What was the condition of James Dawson's health at that time?
A It was pretty poorly; was not good.
Q Was he at that time able to get about and attend to business?
A I don't think he was.
Q Was he not a very feeble minded old man at that time? A Yes sir.
Q Regarded as rather a silly man was he not? A Yes sir.
Q Did he attend to any kind of business of the family at that time?
A No sir, didn't.
Q What was his financial condition? A Pretty bad.
Q Did he have any money? A No sir.
Q Did he have any property? A None hardly at all; horse probably, or a cow or two, something that way.
Q Was that about all the property he had? A Yes sir.
Q How about the other members of his family that were admitted at that time; what was their financial condition? A They were in poor circumstances.
Q Now then after these judgments were rendered what members of your family removed to the Territory, Cherokee Nation, I will say?
A Robert Dawson and family and James Dawson and family, that is, Tom and their children.

Q Robert Dawson didn't remove here? A No, I said except Robert Dawson.
Q Did all the members of Robert Dawson family move here? A Yes sir.
Q Except himself? A Yes sir.
Q And all the members of James Dawson family? A No, not all the members, Melvina Lou I don't think ever lived here.
Q She has never moved here? A No sir.
Q Well all the members of your family, your father's family included in that judgment of the Committee, rendered January 11th, 1893? A All but one.
Q What was the name of that one? A Mina.
Q A daughter? A Daughter of Robert Dawson.
Q Your sister? A Yes sir.
Q Was she then of age or was she a minor? A I think she was a minor, as well as I can remember.
Q Was she afterwards admitted to citizenship in the Cherokee Nation? A She was.
Q By a Commission or by the Cherokee Council? A She was first admitted by the Speans Court, her and two of my neices.
Q What are their names? A Katie Vernon and Verna Fishback.
Q What became of that? A The certificate papers they got was lost, and they went before the Council in 1894 andthey was readmitted back by the act of Council.
Q That was in 1894, the Cherokee Council admitted, re-admitted as they called it, the three above named? A Yes sir. Mary and Verna Fishback and Katie Vernon, they have now the same names now except Vernon, it is not, Tob Robinson married the widow, a neice of mine.
Q Now then was there any other consideration of the Dawson case by the Cherokee authorities at any time aside from these two decisions in '87 and '94 admitting the two families of Robert and James Dawson, and the act of Council of '94 admitting these three who you have just named? A Yes sir.
Q When? A Why two of my sons was placed on the roll by the act of Council in 1892 I think it was; left off of the rolls in per capita payment and they was placed on the rolls I think, and Sam Hightower member of Council, got their draft or checks for the money.
Q Have you got that copy of the act of Council admitting them? A Yes sir.
Q Then it is? A (Produces papers.)
BY MR. ADAIR: We offer in evidence an act of the Cherokee National Council making an appropriation of 20,000 dollars belonging to the general fund for the payment of certain persons therein named a per capita payment, as per amount set opposite their respective names, provided that the Principal Chief shall draw warrants for such amounts, and further provided "That the names of the persons appearing on the per capita rolls in this act shall be placed (on) the authenticated roll of 1880 by the Principal Chief."
This act was approved December 24, 1891.
Approval signed by Stephen Tenee, Assistant Acting Principal-
In this list appears the names of William R. Dawson for payment of $13.70, and of Marion Dawson, for a like sum. Are these now the names of two of your sons? A Yes sir.
(This paper above introduced, is filed and made a part of the record in this case.
Q Was there any other action of the Cherokee authorities relating to members of your family? A Yes sir.

Q When? A In 1894.
Q What was that? A Allowing them their Strip Money.
Q Have you a copy of that? A I think I have. (Produces papers.)
BY MR. McKENNON: We offer in evidence a duly certified copy of an act of the Cherokee National Council approved November 24, 1894, signed C. J. Harris, Principal Chief. Senate Bill No. 19, appropriating a sufficient amount of money to make payment per capita of what is known as the strip money to certain persons named therein. Among them are members of the Blassingame family, as follows: Jane, Elbert, Henry, James Ross Lennie, Pearl, Amos, Myrtle, Winnie and Clifford; this act mentions these persons as Cherokees by blood, and whose names had been left off the pay roll approved May 3, 1894, providing a payment to each one of these a sum of $265.70.
Q Were these members of the Robert Dawson family? A Yes sir.
Q Which one of the members of the family? A Jane.
Q This is Jane who was admitted by the judgment admitting the Robert Dawson family? A Yes sir.
Q And her children? A Her children, was not admitted, she was admitted.
Q I mean this mentions her children here? A Yes, that mentions her children.
(The paper last above introduced is filed and made a part of the record in this case.)
Q Do you know whether the payment of the Cherokee Strip money was

to Cherokee citizens by blood only or not? A Yes sir.
Q Was there any other act of the Cherokee authorities passing upon the citizenship of members of your family? A Why the Douthett children, my brother's grand-children. Two grand-children of E. Dawson.
Q When was that? A That, I think it was in '84.
Q Have you got a copy of that act? A No, the record is here.
Q Was that by the Spears Court? A Yes sir, by the Spears Court.
BY MR. McKENNON: We now offere in evidence a judgment of the Cherokee Commission on Citizenship, 1880 and 1884, found on page 190, case No. 181, dated September 9th, 1884, signed by Eli Spears, President, John Lee and Andrew Young, Commissioners, admitting to citizenship Lula Dowthett and Dallas Dowthett as Cherokees by blood.
Q These now are the Douthetts to which you refer, are they? Yes sir.
BY MR. McKENNON: Attention is called to the fact that the names of the Commissioners are all signed in the same hand-writing as the record of the judgment.

The said judgment record above introduced, and found on page 190, No. 181, record of 1880 to 1884, is as follows:

"Office of Commission on Citizenship,
Tahlequah, Cherokee Nation, September 14th, 1883.

E. Dawson, for his grand-children,	)
No. 181.	(C. H. Taylor,
Lula Fauthhitt,	) Atty for Claim.
Dallas Dauthitt,	(
vs	) Petition filed September
The Cherokee Nation.	(14th, 1883.

Case submitted by claimants Sept 11th, 1883.
Case submitted by Solicitor, Sept. 19th, 1883.
Continued by Petitioner Jan 22 1884 to September Court 1884.
Re-submitted September 2nd 1884, by Attys Taylor and Rehvert

Submitted by defense Sept 8 1884.

And now on this the 13th day of September 1884 comes this case for final hearing and all the evidence in the case having been carefully read, and considered by the Commission on Citizenship it has been decided by the Commission that the above named Lula Daudlett and Dallas Daudlett are Cherokees by blood, and that they are entitled to all the rights and privileges of Cherokee citizenship in the Cherokee Nation and that they should be, and are hereby admitted to the full and complete enjoyment of the same in all respects, as native born Cherokees.

Wm Spears, pres.
John Lee,
John L. Adair, Andrew Young,
Cir Com'n. Commission on Citizenship."

Q Now were there any other actions of the Cherokee authorities of like character relating to the members of your family?
A I don't remember of any others.
Q I will ask you if when the Cherokee authorities were making the roll of 1896, in compliance with the request of the Dawes Commission for a roll to be prepared by them for the use of the said Commission, the question of the citizenship of the members of your family was not then raised and an investigation had in regard to it? A Before the Dawes Commission?
Q No, before the Cherokee Commission making the roll of 1896, of which John T. Gunter was a member? A Yes sir, yes. I had forgot it, but since you have named it there was some investigation of them at that time; this is what I understood.
Q That roll shows that the members of your family were duly enrolled by the Commission? A Yes.

Q Have you and the other members of your family since your removal to the Territory in 1883 and immediately following been recognized as Cherokee citizens by blood? A Yes sir.

Q Have you been exercising and enjoying all the rights of Cherokee citizens by blood since that time? A Yes sir.
Q You and all the members of your family are living in the Cherokee Nation? A Yes sir.
Q You have all drawn Cherokee moneys whenever payments were made?
A Yes sir.
Q And have you all male members been voting at the Cherokee elections or in the Cherokee elections? A Yes sir, I was one of the judges of the elections that was held voting on the treaty.
Q That treaty? A The treaty bill that was sent back here for the Cherokees to vote on; I was one of the judges at Afton.
Q In what year was that? A I believe it was last spring sometime, last April.

Q Have any of you held any offices in the Cherokee Nation? A Yes sir.
Q What offices have the members of your family filled? A Deputy Clerk, under Pete Hastings, when he was clerk of Delaware District, I was a candidate once for Council in the Downing Party.

Q Can any office of deputy clerk be held by any one else except a recognized citizen? A Only by a citizen, yes sir.
Q Is that all? A (No reply).
Q Have the children of members of your family attended the Cherokee schools, and been educated in Cherokee schools? A Yes, sir.
Q Have the members of your family been all the while subject to the jurisdiction of the courts of the Cherokee Nation? A Yes sir.
Q Have they been tried for any offences against the laws? Yes sir.
Q And have they instituted their civil suits in the courts of the Cherokee Nation? A Yes sir.
Q And had suits instituted against them in such courts? A Yes sir.
Q Some of these cases have gone to the Supreme Court of the Cherokee Nation? A Yes sir.
Q And were passed upon by that tribunal? A Yes sir.
Q Is there anything else? A Nothing now; I am sick this evening; I have got the head-ache so bad I can't hardly see.

BY MR. HUTCHINGS:

Q How old was your father Robert Dawson when he died? A I don't know, I couldn't answer that.
Q He was a very old man? A Yes sir, he was getting tolerably old.
Q Could you tell how much older he was than you? A No I don't know.
Q Mr. James Dawson in 1864 must have been a very old man wasn't he? A Well he was old and he was feeble.
Q Well you stated that he had been so silly; was he naturally that way? A He used to live in Texas; I didn't know him until after he came to the Territory.
Q I say he had gotten so old, that was the occasion of that? A I suppose so, the oldest one of these children was Mrs. Betty Petty, that's my understanding.
Q And the oldest boy was John Dawson? A He always called him Jack.
Q Jack Dawson he was the oldest? A Yes sir.
Q Sam was the youngest? A Sam Riley.
Q He was the youngest one of the crowd? A Yes sir.
Q Your father lived four or five years after he and you were admitted to citizenship? A Yes sir, something about that, it was in 1883, I think he died in 1887, I dont be positive; that is as near as I remember now. I have got a headache so bad that I can't remember anything.
Q He not none of the older members of the family were ever present at any of these trials of citizenship? A No sir, not a one of them was.
Q Not a one of them was ever called upon to testify as to the blood of their mother, who she was or anything about it? A I don't think they was.
Q Your claim of kinship was through Captain John Rogers and that your grandmother was the half sister of Big Joe Vann, wasn't it? A I don't know, I couldn't answer the question.
Q You were there when they took the testimony? A I was there when Dr. Baker's testimony was taken, that was about 16 years ago.
Q And nobody kin to the Rogers and Vanns was ever called to testify in the case? A Not as I know of.
Q They were very well known Cherokee families in the coun try? A I suppose so, I don't know.
Q And yet nobody on any side of the family connected with it was ever called to testify? A Not that I know of, I don't know that my brother done, he taken some of the evidence at Tahlequah when I was not there; he first filed his claim.

Q You had spoken to Dr. Baker about the testifying before you brought your case didn't you? A No sir.
Q Must have been a short time afterwards? A It was a short time afterwards. I went back after him and it was too late and I fetched him the next time.
Q You had talked to your brother about what you could prove by Dr. Baker? A I told him I thought Dr. Baker, I thought he knew about our folks.
Q You had told him in a general way you expected to use Dr. Baker as a witness? A Yes sir.
Q You went off, come to Arkansas and left your brother at Tahlequah after you told him that fact? A Yes sir.
Q You didn't see your brother any more until after you were admitted? A No sir.
Q You and he however made trips back and forth to Tahlequah and home at different times, but you didn't happen to get together? A No. I never met him any more and I don't know that he was there until after we were admitted.
Q But you were there and brought Dr. Baker over? A Yes sir.
Q And took his testimoney a year or such a matter before ever you were admitted? A I think as well as I remember, yes sir.
Q Now the way you came to get Campbell Taylor was on the recommendation of old man Bryant? A I didn't get him, didn't use him.
Q The way he came into your case? A The way he claimed to come in.
Q He did more in your case than Bryant did? A Campbell didn't do anything.
Q What did Bryant do? A I think he helped my brother take evidence my brother employed him.
Q How did you happen to be sending money by Campbell to Mr. Duncan? A I never sent him any money.
Q Then when he, Mr. Duncan, states that Campbell delivered the money as Campbell said he did, both were wrong? A Oh no, you are mistaken, Mr. Duncan got 20 or 25 dollars, which he stated, from Campbell Taylor, for me.
Q How did you happen to give it to Campbell? A I give the money to Campbell to give to Joel Bryant, and he wouldn't do it, and I tried to get the money back from him, and I finally worked the 20 or 25 dollars he gave to Duncan.
Q Then you didn't tell Duncan as he testified that you sent 20. or 25 dollars by Campbell Taylor? A Campbell Taylor agreed to pay Duncan 20 or 25 dollars for my of the money I give him to give to Joel Bryant.
Q The family kept Campbell Taylor employed though as their attorney after that? A In the James Dawson case I think so.
Q E. Dawson, you remember, had him for his grand-children? A That is my understanding.
Q And your uncle James Dawson had him in the case of his children? A Uncle James had nothing to do with it; James Low and Bill Jackson got him; that was my understanding of who employed him.
Q The record here shows that the case was originally instituted by C. H. Taylor and was finally submitted by him September 2nd, 1884, in the James Dawson case? A I don't deny him being in that case.
Q You say he was employed in the E. Dawson case? A I don't know who was in the Dartheti children's case.
Q The record shows that Campbell Taylor instituted the case, and it was finally submitted by him, and Mr. Beavert, who testified a while ago? A That was in the James Dawson case, wasn't it?
Q That was in the E. Dawson grand-children? A Elbert?
Q No, in the Dartheti children's case? A Oh yes.

Q He was likewise attorney in the Mary Dawson case was he, and before the Adair court, the 4th of October, 1887, in the case of James K. P. Dawson? A I don't know anything about that.
Q And the case likewise of Riley Dawson? A I don't know anything about those.
Q They are relations of yours? A Well I couldn't say.
Q James K. P. Dawson proves to be a son of Riley Dawson? A Well if he is he is my connection then. There are so many Dawsons I don't know them all.
Q You know Andrew J. Dawson? A Yes sir.
Q The Dawsons have so many children their brothers didn't hardly know them did they? A That's it, I don't know them.
Q Well then you don't know who Andrew J. Dawson is? A No sir, I don't know.
Q He refers in his application as being a cousin of K. Dawson, and yourself, who were admitted to citizenship by the Tahlequah Court? A He may be, I don't know nothing about it.
Q He resided I believe, at that time at Nevada, Missouri? A I don't know anything about their people.
Q Old Man Baker was an old and paralyzed man at the time he testified wasn't he? A Getting old, he was not paralyzed.
Q Then the statement made that the reason he couldn't write his name and had to make his mark, because he was paralyzed, in the testimony isn't that true? A He didn't have good use of his fingers.
Q Then he was not paralyzed? A No, I brought him over there in a hack from Berryville, Arkansas.
Q Well I say he was a very old man? A Yes, getting old.
Q How didn't you come to this place up there joining Brought's and work on it some time before you brought your family? A No, I brought my family with me, except my wife.
Q And you subsequently built a log house on it? A Yes sir.
Q And went back and got your wife and moved them to the log house? A Yes sir, went to Eureka and got my wife.
Q You never saw your grandfather at all? A Sam Dawson, yes sir, I saw him.
Q You remember do you of being with him much of any at all? A I was in Texas in time of the war, with my uncle Riley Dawson, and he was there.
Q In '60 sometime? A '62, I reckon, or '63. Somewhere along there, it was in time of the war.
Q How old a man was he at that time? A Pretty old man.
Q You never saw your grandmother, she died before she came?
A Yes sir, I never saw her at all.
Q Who first started the citizenship matter, your brother in Texas or you? A Why it was me, and my brother together.
Q I mean who first conceived the idea? A I first commenced talking about it.
Q And sent down for him? A I was in Texas with him and then in Arkansas; I went backwards and forwards a time or two after the war.
Q About that time nearly everybody in Arkansas were trying to get some claim of kinship to Cherokees? A No sir, not at that time.
Q They were getting pretty thick in there in 1880? A Well in 83 and '4 and '5 I think.
Q Been some excitement over there to get yourselves on the rolls? A Just got to be everybody; but it wasn't at the time we was admitted there was not much stir about the rights here.
Q Well the Watts had been admitted before that? A I suppose they had; there was not much excitement over the Watts claim at that time.

BY MR. HASTINGS:
Q You did locate and board with Sam Shables when you first came to Tahlequah in '91? A I think I did.
Q Your brother Buck Dawson stayed there also? A Yes sir.
Q Sam Shables lived in the north end of town, old German? A Yes sir, old German, lived in the lower part of town.
Q Did you ever hear the names of any other witnesses which you stated perhaps testified in your case? A I have heard them but I have forgot them.
Q You don't recollect any name now? A I don't remember that now sir.
Q In the Irene House case and Joanna Barber case, in which you testified before the Commission, when you were making search for this testimony you couldn't find any other testimony from that of record except the Dr. Baker testimony, could you? A That's all we could find; no we didn't find the testimony, we got a copy.
Q Well it must have been a copy of the original, the certificate shows that? A I don't know; House got a copy of what claimed to be the affidavit of Baker and he told me to give it to him; that is all I know about it.
Q Well the certificate there does not bear my certificate does it? A I don't know about that, I am no scholar.
Q Well you didn't get the testimony of any other witnesses except that of Dr. Baker; you couldn't find any other over there of record? A I didn't hunt for any; House hunted for them.
Q None of you have ever been able to find any other? A No. Not even find our petition.
Q Samuel P. Dawson applied to what is known as the Adair Court, didn't he? A I don't remember now.
Q He was an uncle of yours wasn't he? A Yes sir, claimed to be.
Q The father of these two parties who testified here this morning? A Well I don't know, they claimed to be, I never met them to know them.
Q He was rejected by the Adair Court, or Hayes Court? A I don't know whether he filed his petition.
Q Did you testify in his case? A I don't remember; I might have dont it.

Q Didn't you testify in the Andrew J. Dawson case before what is known as the Hayes Court? A I don't recollect, if I did I don't remember.
Q Did you testify in the Riley Dawson case? A No sir, not that I remember.
Q Didn't you know of his being rejected by that court? A I don't remember, sir.
Q You know that the Cherokee Council never authenticated the roll of 1896, don't you? A No sir, I don't know it; I didn't know this was done until I went to Tahlequah after some papers and came back and they told me about it.
Q You never found out that C. H. Taylor was a big rascal up until the present time have you? A (No response)
Q The records here show that he has been in the constant employment of your family from that date up to this time? A Why it shows here from the record; I would rather be excused for my part of it.
Q You were the man that had the most to do with it? A I never employed him, I can say that.
Q You are the man that had most to do with the records? A In my case and in my father's case.
Q Didn't you testify for your uncle Jim Dawson? A Yes sir.
Q Wasn't he attorney for him? A Yes sir.

Q Wasn't he employed by Jim Dawson after you got your citizenship?
A Why yes, but the grand-children.
Q Jim Dawson's petition was filed in September 1883, after yours?
A Yes sir.
Q C. H. Taylor, attorney of record, filed his petition? A He might have filed it for all I know.
Q Well you hadn't at that time fallen out with C. H. Taylor had you? A Why no, we never did have any trouble, only over his money, he never would give it back to me or give it to Bryant.
Q You never discovered that he was such a bad man until after your judgment was rendered? A I know he was not of good character.
Q Are you and Brought, this man who testified for the Cherokee Nation, on speaking terms? A Hardly speak.
Q Does he refuse to speak to you? A So etimes he does.
Q Do you refuse to speak to him? A Yes sir.
Q Have you been speaking to him for the last two or three months?
A I have not spoke to him until I met him there at the hotel the other day.
Q First time you spoke to him since he had the boy arrested? A Yes sir.
Q When did he have the boy arrested? A Alon in September or October, September I think.
Q When did Dr. Baker die? A I don't remember.
Q You don't remember how much older your father was than you?
A No, I don't know.
Q What is your age? A I will be 60 in May.
Q Then you were born in '42? A Yes sir, '43 according to the record.
Q Was your father as much as 25 years old when you were born?
A I couldn't say.
Q What was your best judgment? A I suppose he was 20 or 25 years old. My understanding he married young.
Q Can't you give any better idea than 4 or 5 years of your father's age? A I say 25.
Q Your father was born say, 25 from 42 would have made him be born in 1817; now had your father any older brothers or sisters? A I think Jack Dawson was the oldest of the family, no, Betty, the girl, was the oldest and Jack next, and then my father as well as I remember about it.
Q There were two girls older? A No, one of the girls I never saw.
Q Then you think there are only 2 older than your father? A Yes, that's my understanding of the family.
Q Dr. Baker gives his age 77 in '82, which would make him be born in '69, Now he states that when he was 15 or 16 years old, which added to 1808, will make 1824, that your grandmother Anna Pruett, was a school girl; whereas from your testimony and that of the family history introduced here shows that your grandmother Anna Pruett was the mother of seven children, the youngest being born in 1823, how do you reconcile that? A I don't remember about the statement of Dr. Baker; I don't know that he made such statement as that, I don't remember about it.
Q And if he did you don't know how to reconcile it? A (No response.)

Q Did you talk to any of the members of the Court that admitted you? A No sir, I was not acquainted with them.
Q You know whether they were old or young men? A They were old men like: Steve Tehee, I got acquainted with him afterwards, and Tom Thompson, at the Council you know I was there a good deal.

Q That was the fellow that was on the court? A Yes sir.
Q He was afterwards assistant Chief of the Cherokee Nation?
A I think so.
Q Steven Teleer, that's the man you had reference to? A Yes sir, I think it was. I just knew the man. I had no acquaintance with him at all.
Q D. W. C. Duncan boarded when you were doing there at the National Hotel? A I think he did, as well as I remember now when we were admitted.
Q Don't you know he did? A I think he did, as well as I remember.
Q Were not you over there to his room? A I think I was.
Q You remember when it was that you brought Dr. Baker down there to make a statement before the Court? A It was in January, Ter., was in January Term of 1882 I believe, it was, as well as I remember about it.
Q Well you didn't take any more testimony after Dr. Baker testified?
A No sir, I didn't.
Q But your case was not submitted or passed upon for a year?
A I think it was, yes sir, as well as I remember.
Q I would like to ask you when the Blassingame family came to the Cherokee Nation? A Alex Balsingame came with me when we moved here, and went back and got his family and moved that fall.
Q Did he move his family here that same fall? A Yes sir.
Q What year was that? A In the fall of '83 I believe it was, as well as I remember now.
Q When did the Sulanka family come? A I think the girl and the old lady came in the next spring.
Q How long did they remain that time? A The old lady stayed here, but the girl went back and in a short time her and her husband came back.
Q Did she come back until after her marriage? A No, she was married when she came first.
Q The last time? A She was married I think, she was married when she came out.
Q How long has August Sulanka been a permanent and continuous resident of the Cherokee Nation? A I think he came there in the fall of 1884 or 1885, I won't say which.
Q How long has Robert Pierce been a continuous resident of the Cherokee Nation? A Ever since he was admitted.
Q When was that? A '85.
Q How long has Martin D. Patterson? A Ever since he married his wife, and he was living here before he married his wife.
Q Who is Arizona Alrey? A That is my daughter.
Q Did you bring her with you? A No not when I moved.
Q When did she come? A She came out in a year or two after I moved here.
Q Was she married when you moved here? A No sir, she was not married.
Q She was not married when you were admitted? A No sir, she was a child.
Q When did Jim Love come to this country? A With his grandfather, James Dawson.
Q What was his mother's name? A Melvina Dawson.
Q You know Jim Love's age? A No sir.
Q Don't know how old he was in '83? A No sir.
Q Was he grown? A I think he was.
Q Married? A No no.
Q Married in this country? A Yes sir
Q Who is James H. Harmon? A Married one of the Jackson girls.

Q When did they come to this country? A Right away after they was admitted.
Q In what year? A I think the winter of '94, I think it was, spring or winter of '94.
Q You know Simon Graham? A Yes sir.
Q Who is his mother? A Missouri Ann Graham, formerly Missouri Ann Dawson.
Q Did he come from Texas to Arkansas? A Came from Texas.
Q Did you know them in Texas? A I knew the girl.
Q You never knew them until they came to this country? A I never knew Sid.
Q When did you see him here? A I think they came here in the fall or winter of 1894 or '5.
Q He was married then? A I think he was.
Q Brought his wife? A I think he was, I don't know.
Q Did he have any children when you first saw him? A He came to my house and I never saw his family for-I don't know, for several years.
Q You understood he had a family? A Yes sir.
BY MR. McKENNON:
Q Did you mean to say '84 or '82? A '84.
Q Did you see Sid Graham in '84? A '84, let me study, maybe '85.
BY MR. HASTINGS:
Q Did you see him in '85, are you positive as that proposition? A I think so.
Q Will you swear it? A No sir, I wont positive swear it, but I think it was, as I remember now it was. I couldn't say positive.
Q All the people Mr. Dawson that have been admitted to citizenship by courts of competent jurisdiction unless they were de-citizenised by courts of acquired jurisdiction, enjoyed the same privileges that you have mentioned here about coin, lands and being tried in the courts? A Yes sir.

Q All that sort of thing that you have been telling here in your direct examination? A Ask me the question again.
Q I say all people who were admitted here by courts of competent jurisdiction, until they were de-citizenised by courts of like jurisdiction, enjoyed the same privileges that you did? A So far as I know they was.
Q They all drawed money and all tried in the courts as long as we had tribunal courts, were they not? A Yes sir, so far as I know.
Q There was no special privilege granted to you in preference to anybody else? A None but recognized citizens of the Cherokee Nation.
Q Well you had been recognized since you were admitted? A Yes sir, I enjoyed the same privileges of native born Cherokees.
Q Well I say there is nothing special about it? A No, I don't know as there is.
Q You got acquainted with Mr. Duncan while you were up there during the hearing? A Yes sir, I was acquainted with him, I new him, when I saw him.
Q Mr. Bill Rose did the examination of Dr. Baker? A Yes sir.
Q Did you file any other paper before the Court other than your petition and then Dr. Baker's statement? A I never filed any petition there at all.
Q Nor a statement? A I don't remember any.
Q Well you never had occasion to file any papers before Mr. Duncan? A I got him to do some writing for me.
Q What? A Letters to my brother in Texas.
Q Jack Dawson? A Yes sir, R. Dawson.

Q That? A Yes sir, Buck Dawson.
Q Well is that all he did for you? A I don't remember anyhow about it.
Q Why didn't you get your attorney to do that letter writing? A There was not any there.
Q Taylor nor Benge was not there then? A No sir.
Q That is what you paid the 20 or 25 dollars for, was writing this letter back to your brother? A I paid him for that claim.
Q When did you pay that? A I think I paid it, I don't exactly when, Camp Taylor paid it a year or two after I moved out here and settled where I did; might have been 2 years. I don't remember.
Q There was Duncan living then? A I couldn't say there.
Q Was he still clerk of this Court? A No sir, now when the money was paid; that is, when Camp Taylor said he paid it.
Q You did send Camp Taylor some money? A I sent some money to him for Joel Bryant.
Q You knew Joel Bryant's address didn't you? A No, I don't know that I did, No I didn't send Camp Taylor any money, I gave it to him.
Q How much did you give him? A One hundred dollars.
Q When? A Right at that time; he claimed it from me as soon as we got our papers; he come into me and demanded it for Bryant.
Q You never sent him any then after that? A No sir.
Q Did you ever see Bryant after that? A Yes sir
Q How long after that? A I don't know, a year or two afterwards. a year I believe, my brother wrote, I wrote to my brother about paying Camp Taylor money and he went over my brother about it and he never paid him until we moved out to this country.
Q After all that you got him to attend to your uncle Jim Dawson's and the other relatives cases? A The other parties did.

BY MR. McKENNON:

Applicants object to all that part of the witness' evidence in response to interrogatories by representatives of the Cherokee Nation which relates to the character of the evidence upon which the judgments admitting members of the James and Robert Dawson families were admitted, and to the history of the members of the Dawson family, because the same is immaterial, incompetent and irrelevant.

BY MR. McKENNON:

Q One question I omitted to ask you Mr. Dawson, as to the Court at the time the judgment admitting Robert Dawson's family was rendered, who of the judges were present on that day? A They was all three of them, Wolfe, Tehee and Thompson.
Q Are you positive of that fact? A Yes sir.
Q You do not know this Andrew Dawson family who applied to the Dawes Commission for Cherokee citizenship, and who stated that they are cousins of some members of your family? A Andrew?
Q Andrew J. Dawson, who claims to be from Missouri? A How was the question?
Q You do not know them do you? A I don't know that they are any kin to us.
Q You don't know that they are related to you at all? A No sir.
Q This Mary Dawson case, do you know the members of that family? A No sir, I don't.
Q Don't know who they are? A No sir.
Q The Rebecca Dawson case? A I don't know her either.
Q You don't know whether they are related to you or not? A No sir.
Q If any of these persons are related to you or your family did you have any knowledge of it? A Not as I know of.

Q Joanna Barber, do you know anything about them? A They claim to be kin to us.
Q Where are they from? A They are from Texas.
Q Do you know they are related to you? A They claim to be kin.
BY MR. HASTINGS:
Q Well you swore for them before the Commission? A Yes, they claim to be kinfolks of mine.
BY MR. McKENNON:
Q Irene J. House, who is that? A That is a cousin of mine: claims to be.
BY MR. HASTINGS:
Q You testified for her didn't you before the Commission? A I think I did as well as I remember.
BY MR. McKENNON:
Q Before the Court that admitted James Dawson and family, who were the witnesses there? A Oliver Miller, from Berryville, Arkansas.
Q Who were the others? A Myself and J. Dawson and there was two other witnesses, I don't remember who they are.
Q Were they Cherokee citizens and residents of the Cherokee Nation? A Yes sir.
BY MR. HASTINGS:
Q You don't remember their names? A Which?
Q Of those other people who claimed to be citizens of the Cherokee Nation and who were witnesses? A I said about me and J. Dawson was citizens of the Cherokee Nation.
Q You only proved that Jim Dawson was a brother of Robert Dawson before the Court? A Yes sir.
Q And then referred back to the decision in the Court before? A We proved that they were citizens, and he knew my folks before we ever come here.
Q Was he older than Dr. Baker? A About the same age.
Q Why didn't you get Oliver Miller's testimony in the House case?
Q He was dead.
Q You and no member of your family in the Irene House case or the Joanna Barber case or any of those cases that were tried before the Dawes Commission in your affidavits ever made reference to the fact that Oliver Miller testified in Jim Dawson's case in '84 did you? A I don't remember about that.
Q You did make reference to the fact that Dr. Baker testified there in '87, didn't you? A I don't remember about that now.
Q You never made reference to any other witness having testified other than Dr. Baker did you? A I don't remember about it now.
BY MR. McKENNON:
Q Now just one other question: All of these papers in the original application and everything, so far as you know, in the James Dawson case, were filed before the Commission which admitted the James Dawson family, are lost or misplaced are they not? A I suppose they are, I don't know, I never saw them.
Q Have you tried to get copies of them? A Yes sir, I tried to get the original papers.

BY COMMISSION: This case is continued until 8:30 a.m., tomorrow morning, March 20th, 1902, it now being the hour for adjournment.

MARCH 20, 1902,- 8:30 a. m.- F. M. DAWSON again on the stand, testifies as follows:
BY MR. McKENNON:
Q Where was your brother Jim Dawson raised? A In Arkansas.

Q What County? A Carroll.
Q Near the town? A Berryville?
Q Did Dr. Baker live at Berryville? A Yes sir.
Q Was your brother intimately acquainted with him for many years?
A Yes sir.
Q Did he know Mr. sufficiently to be acquainted with his character and habits of life? A Yes sir.
Q Do you know Josephine Pierce? A Yes sir.
Q Whose daughter was she? A Robert Dawson's.
Q Is she the same identical person who is called Josie Pierce, and Josie Dawson? A Yes sir.
Q Is there any other Josie Pierce or Josie Dawson or Josephine Pierce or Josephine Dawson? A I don't know but the one.
Q She was also called Josephine or Josie Kelly? A Yes, after she married; her first husband was Pierce.
Q And her second husband A Was Kelly.
Q There was another Josephine Dawson wasn't there, Bulaska's wife?
A They called her Joe, I suppose that's her name, I could not be positive; that was Rile Dawson's daughter, August Bulaska's wife.
Q She is much younger than your sister, Josephine, above referred to? A Yes sir, oh yes.

BY MR. HUTCHINGS:

Q Where were you born, Mr. Dawson? A Carroll County, Arkansas.
Q You know how old you are? A 42.
Q 42? A I think so.
Q How many older children were there of your father and mother than yourself? A Three.
Q Which were they? A E. Dawson, Riley Dawson and Jasper Dawson.
Q You are the fourth child and the fourth boy? A Yes sir, fourth boy.
Q Where were your father and mother married, do you know, from family history? A I think it was in Arkansas, I couldn't be positive, I think they was.
Q Do you know how long your grandfather lived in Arkansas? A No sir I don't.
Q Don't know what year he came to Arkansas? A Only from statement.
Q Well what did they say about it? A I think they came there so close in '30.
Q You know whether your father was born in Arkansas? No, any of your grandfather's children were born there? A There was none of them born in Arkansas according to history and according to what he always told me, they were born in Tennessee.
Q He came there in '30, and all the other children were born on the Hiwassa River in Tennessee, befor he ever came? A That is what I think, yes sir. But I am not positive about that. They came from Tennessee, but either Dr. Baker lived there or my folks came from there; I don't know as I remember that I ever heard my father say where he was born at.
Q In Tennessee somewhere; he said he was a good big boy when he came to Arkansas? A I don't know as I ever heard him say.
Q Do you know the difference in the ages of yourself and your three older brothers? A No I don't.
Q Don't know the time that comes in between you? A No I don't know that; I think it is about two years though.
Q That would make E. Dawson about eight years older than you, probably? A Yes sir.

BY MR. McKENNON:
Q Did Josephine Pierce have a daughter who married Mr. Bogle?
A Yes sir.
Q What was her name? A I always knowed her by Dade Pierce; I don't know whether that is her right name or not.
Q That is Bogle's name? A John Bogle.
Q She is the child of Josephine Pierce who married John Bogle?
A Yes sir.
BY MR. HASTINGS:
Q Where did she marry John Bogle? A Near Afton.
Q When? A I couldn't state.
Q About when? A You have got a copy of the marriage license.
Q When did Josephine Pierce come to the Cherokee Nation? A '83.
Q Has she lived here continuously since that time? A Up until her death; she is dead.
Q Any of her children come with her at that time? A Yes sir.
Q And have they lived here continuously since that time? A Yes sir, except Bill Pierce, he went to Colorado and died.

J. C. STARR, being first duly sworn and being examined, testified as follows:
BY MR. McKENNON:
Q Your name is J. C. Starr is it? A Yes sir.
Q Mr. Starr, was that instrument taken by you, or before you? (Showing witness document.)
A Yes sir.
Q Where? A At the residence of S. H. Benge near Fort Gibson.
Q When? A On the 15th day of this month.
Q What day of the week was that? A On Saturday.
Q Is that the day it was taken? A Yes sir.
Q Did you go there on Saturday to take this? A Yes sir.
Q Then when Judge Benge stated on Tuesday that it was taken "yesterday" meaning Monday, the 17th, he was mistaken, was he?
A It was taken Saturday, the 15th.
Q Was he mistaken or not? A It was not taken then.
Q Then his statement made on Tuesday the 18th that it was taken on "yesterday", meaning Monday, the 17th, was not correct, was it?
A I think not, because I was there, and it was taken on the 15th.
Q And it was taken on the 15th, you are positive it was taken on the 15th? A Yes sir.

Q Then of course his statement could not be correct? A I guess not.
BY MR. HASTINGS:
Q He was just mistaken about the date, wasn't he? A Yes sir.
BY MR. McKENNON:
Q Did you tell Charles T. Moore who is now present, on last Tuesday that they sent you out there on Monday to take that? A No sir.
BY MR. HASTINGS:
Q I sent you there last Saturday? A Yes sir.
Q And you went there at my direction, didn't you? A Yes sir, and come back Saturday night.

ROBERT L. DAWSON, being first duly sworn, and being examined testified as follows:
BY MR. McKENNON:
Q What is your name? A My name is Robert L. Dawson.
Q What is your age? A My age is something close to 30 years old, I am 29 past.

Q Are you a son of E. Dawson, commonly known as Buck Dawson?
A Yes sir.
Q I will ask you if you will examine this letter sent with the enclosure and state whether or not you found that among the papers of your father after his death? A (Hands letter to witness who examines it) A Yes sir, I found this amongst the papers of my father. He always kept all his own papers, and me looking over them I saw this letter.
Q Has that been in your custody ever since you found it? A Yes sir, if that's the letter that was in the envelope.
Q Well that's what it is, you can tell whether it is or not. (Witness further examines letter) Q That purports to be a letter from Samuel H. Benge, does it not, to your father? A Yes sir. (Here applicants' attorney hands letter and envelope referred to to attorneys for Cherokee Nation.)

BY MR. McKENNON: I want to offer this letter in evidence in this case; it is a letter signed by S. H. Benge, attorney at law, dated Fort Gibson, C. N., Jan. 13, 1883. Addressed to Mr. E. Dawson, Esq., together with the envelope, in which it was enclosed, with the card of C. H. Taylor upon it, attorney at law, Tahlequah, Indian Territory, and postmarked Tahlequah, Ind. T., January 13.

BY MR. HUTCHINGS: The Nation objects to the introduction of this letter for the reason that S. H. Benge is living and has testified in this case, and his handwriting should be either proven or denied by himself.

G. W. BENGE, being first duly sworn, and being examined, testified as follows:

BY MR. McKENNON:
Q What is your name? A G. W. Benge.
Q Are you a son of Samuel H. Benge? A Yes sir.
Q Do youknow his handwriting? A I believe so.
Q Is that his handwriting? (Shows witness letter before referred to.) A Yes sir, it is either his or a resemblance of his.
Q To the best of your knowledge and belief is that his letter?
A Yes sir.

BY MR. McKENNON: Now we offer it in evidence.

BY COMMISSION: (Reading letter)

"Fort Gibson, C. N.,
Jan 13th, 1883.

Mr. E. Dawson, Esq.,

Dear Sir:- I write this note to inform you that your case case off before the Court on Citizenship on the 11th inst, and was decided in your favor, so you all are citizens of this Nation. F. M. Dawson was furnished with a copy of the decision at the court. He will write to you allso. You will please send me fifty dollars as my fee in your case according to contract. Send it to Fort Gibson, Cherokee Nation.

Respeofelly yours,
S. H. Benge,
Attorney at law."

Enclosed in envelope, as follows:
Card in upper corner, left hand:
"Return in ten days to C. H. Taylor,
Attorney at Law,
Tahlequah, Ind. Ter."
Addressed: "Mr. E Dawson,

Henrietta,
Clay Co., Texas."

Post-marked: "Tahlequah, Jan 17 Ind T."

ROBERT L. DAWSON, re-called and further examined, testified as follows:

BY MR. McKENNON:

Q Now examine that and see if that is also a paper which you found among your father's papers after his death? (Hands papers to witness) A That is the same letter that I found.

Q Among the same that you found the Benge letter? A Yes sir.

BY MR. McKENNON: This is a letter purporting to have been written by J. M. Bryan, to E. Dawson, dated at Chouteau Station, Cherokee Nation, and not dated, which we offer in evidence. (Applicants' attorney hands said paper to Nation's attorneys.)

Q Mr. Bryan is dead is he not? A I think so.

BY MR. HUTCHINGS: We have no objection.

BY COMMISSION: (reads letter)

"Chouteau Station, Cherokee Nation.
I. T., M. K. & T. R. R.

MR. Dawson:

Dear Sir:-

I am in receipt of your favor of the 30th inst in regard to our contract.

After I had got the claim so there would be little more to do I employed Campbell Taylor to answer for me when the case came up, for which I was to pay him $20 out of my fee.

This all was action I had in the matter with Taylor.

I saw Taylor in Washington last month, and he told me that your brother had made another contract with him, and paid him, or that you was to pay him $100- and that you had offered him a check on some bank in Texas.

That $100- matter with Taylor, I have nothing to do with, nor couldn't have if I wanted to.

I hope Mr. Dawson this letter will explain the matter fully.

And I am satisfied that you are apprised of the earnest work I done for you, Please write to me.

Very respectfully,
Very truly,
J. M. Bryan."

Q I will ask you if you know of your father having paid Bryan that money? A Yes sir, paid him a horse and some other money.

BY MR. HUTCHINGS:

Q How old was your father when he died? A Lee, I don't know whether I know his age or not.

Q If you don't know you can't say? A I wouldn't have no reason to know his age; never asked him his age; of course I guess my father knows.

Q Never had occasion to talk about his age at all? A Oh I have heard him speaking of his age at different times, but then I never paid enough attention to it.

Gid Graham, being first duly sworn and being examined testified as follows:

BY MR. McKENNON:

Q What is your name? A Gid Graham.

Q How old are you? A Mr. Graham? A I am 35 years old.
Q How long have you been living in the Territory? A I came out here in 1887 or '88.
Q To the Cherokee Nation? A Yes sir.
Q How long have you been living in the Cherokee Nation, what year was that '87 or '8? A Yes sir.
Q Have you resided here continuously from that time ever since in the Territory? A Yes sir.
Q How long did you live in the Cherokee Nation? A About 6 years.
Q Where did you go then? A Wagoner.
Q In the Creek Nation? A Yes sir.
Q And been residing there ever since? A Yes sir.
Q In business? A Yes sir.
Q Have you all the while been recognized as a citizen of the Cherokee Nation? A Yes sir.
Q Mr. Graham, do you know Judge Samuel H. Benge? A Yes sir.
Q Did you have a conversation with him in Fort Gibson about September of 1900? A Well as to the exact time I couldn't say, it was sometime about the time that the Dawes Commission were at Sallisaw, or possibly a little later, somewhere about there.
Q Taking the census of the Cherokees? A Yes sir.
Q At that time had the question of the validity of the judgment of the Cherokee citizenship commission admitting Robert Dawson and family been called in question? A Yes sir.
Q Did you talk to him about the facts concerning the obtaining of that judgment? A I did.
Q What did he tell you about it; well I will just ask you, did he then and there tell you that that judgment was regular and all right nothing wrong with it? A He did.

BY MR. HUTCHINGS:

Q You were looking around for testimony at that time, Mr. Graham, were you? A How was that?
Q You were looking around for testimony at that time, expecting this case to be questioned? A Since the validity of that judgment had been attacked by the authorities of the Cherokee Nation, I thought it was well to look into the matter.
Q And he told you the judgment was all right? A Having known that Mr. Benge was connected with the case, I saw him in Fort Gibson, subsequent to that time and asked him about it, if there was anything wrong about the matter, and also that I might want his affidavit concerning the matter, and I also I think maybe wrote to him; possibly prior to that; I am not sure as to the writing, but I think possibly I did
Q Did he tell you he would make an affidavit? A I don't think at that time that I asked him for an affidavit. I thought as he lived right near here I would use him in person; he assured me that everything was all right.
Q Your mother was Missouri Dawson was not she? A Yes sir.
Q Her name was Missouri Graham when she was re-admitted to citizenship? A Yes sir.
Q And was not Missouri Dawson as named in that judgment? A Yes sir.
Q Do you know whether the other children named in there had married and changed their named also at the time they were admitted? A There were not any of them married.
Q Ella Dawson was your aunt? A Yes sir.
Q Was she married at that time? In 1903? A Yes sir.
Q Melvina Dawson, was she married at that time? A Yes sir.
Q And the fourth one you have mentioned, Missouri Dawson, was your mother? A Yes sir.

Q Can you give us the exact date of your birth? A Yes sir.
Q Do so, please? A January 21, 1867
Q And you came to the Territory when? A In 1887 or 1888.
Q You can't make that any more definite? A Well sir, it has been a good while ago, and I didn't have anything to cause me to.
Q Well I just want to know whether you did have or not? A No sir.
Q When were you married? A 1886.
Q You were married prior to coming here? A Yes sir.
Q Your first child born away from here? A Yes sir.
Q What is its name? A John W.
Q '86 you were married, and he was born about the spring of '87?
A Somewhere in 1887, I don't remember.
Q Prior to your coming here? A Yes sir.
Q That is the only child you had that was born away from here?
A No sir, Julius.
Q Julius was not born in the Territory? A No sir.
Q And prior to the time of your removing to the Territory? A Yes sir.
Q These are the only children born out? A Yes sir.

BY MR. McKENNON:

Q Do you know Campbell Taylor? A Yes sir.
Q I will ask you if about February 1901, he came to Wagoner, and sent his son to have you come to the hotel at night where he was, and if he then and there said to you, "You people are on the doubtful list, and if you will give me [illegible] and if you will make it all right and see that [illegible] and if you don't I will see that you don't get on [illegible] the first part of thatquestion, where you say he [illegible] that is an error; I don't know whether he came to my house or sent some one; when I returned home that evening my wife told me there was some one there to see me, and was at the city hotel at Wagoner, and said come down and see him; I went down there; I never had met Taylor; he introduced himself to me and stated what his business was; asked me if I was on the doubtful list, etc ; to which I replied that we were; he asked me if I didn't want to employ him, stating that if we would give him, our family would give him five hundred dollars he would see that we were placed on the rolls all right, but if we refused to give him five hundred dollars that he would use his influence against us and see that we were rejected.
Q You never had met him before, or had any communication with him?
A I never met him before; as to the communication, I may have written him something about his affidavit as to the validity of that judgment, I can't say as to that. He said in his testimony that I did; I don't know whether I did or not now.

BY MR. HUTCHINGS:

Q You knew he was the attorney in the case, originally? A After looking at the records I did.
Q I mean you knew it at the time you wrote to him about the affidavit; that was the reason why you thought he would know something? A Certainly.
Q He never told you he was going to swear against you or threatened to tell anything that was not true? A He just simply said unless we gave him that five hundred dollars he would see we were all cut off the rolls.
Q Said he would use his influence against you, that is what he said? A Yes sir.

BY MR. HASTINGS:
Q You don't deny writing to him then for the affidavit? A I don't say I did or I did not; I neither affirm it or deny the question.
Q You went to Captain Range and also wrote him with reference to what he knew about the case? A I don't know whether I wrote him or not, I said I was under the impression I wrote his son.
Q You went to see Aaron Butler, who was interpreter before that court that admitted you? A Yes sir.
Q And you went with Aaron Butler to see Jim Smith, attorney before that court? A Yes sir.
Q And you either wrote or went to see everybody you knew of that was before that court then? A Yes sir.
Q That shows you used considerable activity? A Yes sir, I used such activity as was to my interest.
BY MR. McKENNON:
Q That was all after the representatives of the Cherokee Nation objected to the enrollment of the Dawson family and by reason thereof such as had appeared before the Commission had been placed upon a doubtful card? A Yes sir.
Q Then you began to look up the evidence and see what there was in it? A Yes sir.
Q As Mr. Hastings has stated? A That's right.
BY MR. McKENNON:
Q You are a grandson of James Dawson? A Yes sir.
Q The old gentleman? A Yes sir.
Q About what was his age when he was admitted to citizenship in the Cherokee Nation, [illegible] it? A Yes sir, well I can't be exact as to that.
Q Well as nearly as you can? A He was somewhere about 70 or 72, years of age.
Q Well what other James Dawson did you know belonging to the families, either one of these families, Robert Dawson family or the James Dawson family? A I never knew of but two James Dawsons.
Q Who were the others? A Dr. James R. Dawson, who is present and standing right here; my grandfather, James Dawson.
Q Was there in '84 any James R. Dawson 35 or 40 or 45 years old, that you know of, belonging to either one of these families?
A No sir.
Q Do you know how old Dr. James R. Dawson was that that time?
A James Dawson? Q No I am speaking of Dr. James R. Dawson? A Oh, how old he was, no sir, I do not.
BY MR. HUTCHINGS:
Q Do you know who was here attending to your mother's citizenship case at that time, at the time they were admitted? A Yes sir, James Low and Bill Jackson, son of Ellen Jackson.
Q Who was W. A. Dawson? A That is Wilburn, my uncle.
Q Was he here? A I don't know sir.
Q You were not here any of the time? A No sir.
Q You knew your grandfather then, you had lived in the same neighborhood with him? A Yes sir, I knew him well.
Q He didn't die for a year or two after that did he? A After when, Mr. Hutchings?
Q After his admission to citizenship? A No sir, he didn't die I think until '91 or '90, several years after.
Q Very old man when he died? A Yes sir.
BY MR. McKENNON:
Q About what age? A He was approximately 80 years old.
BY MR. HUTCHINGS:
Q When he died? A Yes sir.

BY MR. HASTINGS:
Q That about 1891? A I think so, yes sir.
BY MR. McKENNON:
Applicants object to the testimony of the witness elicited by interrogatories of Counsel for the Cherokee Nation relating to his family, their history, etc, as being immaterial, irrelevant and incompetent.

James R. Dawson, being first duly sworn, and being examined, testified as follows:
BY MR. McKENNON:
Q Your name is James R. Dawson? A Yes sir.
Q Where do you live? A Afton, Indian Territory.
Q What is your age? A 45.
Q You are a physician are you not? A Yes sir.
Q Was James Dawson, whose family was admitted in 1884, an uncle of yours? A Yes sir.
Q Do you know what his age was at that time? A No sir, I do not, only approximately.
Q State as nearly as you can? A At the time of theadmission?
Q Yes sir? A About 70, I don't know exactly.
Q How old was he when he died? A I would suppose he was about 78.
Q What was your age in 1884? A I am 45.
Q What year were you born, Doctor? A I was born in '55.
Q Must have been '56? A Yes sir, that's right.
Q What was your age then? A In '84?
Q Yes sir? A About 28.
Q Were you present at the time that James Dawson family was admitted, or at any time while their case was pending before the Cherokee citizenship commission? A Not while the James Dawson case was, no sir.
Q You were present during your father's case? A I was there at the time.
Q When was that? A The dates I disremember; when the case first came up, I disremember the exact date.
Q How long were you there? A I was there about a week.
Q Was that when it first came up you say? A Yes sir.
Q Nothing was done? A No sir.
BY MR. HUTCHINGS:
Q You never saw Dr. Baker? A Yes sir.
Q Did he and your uncle Jim ie used to talk about how they playsd together when they were boys? A My uncle Jim and Dr. Baker talk?
Q Yes? A I never saw them together.
Q They were about the same age? A Yes sir, I believe Dr. Baker was 15 years older probably.
Q Dr. Baker must have been mistaken about his own age? A Guessing, that's all I know about his age.
Q The Doctor had been paralyzed, rather a decrepit looking man at the time he was over here at this citizenship business? A No sir, not as I know anything about.
Q He was near about 70 then? A I couldn't tell you, he was an old looking man.
Q Your uncle Jimie was about 70? A Yes sir.

TESTIMONY ON BEHALF OF THE CHEROKEE NATION.

W. W. HASTINGS, being first duly sworn, and being examined testified as follows:

BY MR. HUTCHINGS:

Q State your name? A W. W. Hastings.

Q Residence? A Tahlequah, age 35

Q You are attorney for the Cherokee Nation in the general preparation of these cases? A Yes sir.

Q Just state how it happened that you summoned Mr. Campbell Taylor, and what occurred between you with reference to his testimony?

A Well there had been some talk, as the testimony here indicates, that there was perhaps fraud in the admission of this family, and by agreement with counsel on the other side, and the Commission, this case was set for the 17th day of March, and some short time prior to that, as the attorney for the Nation I began to make some preparation or inquiry into the case, and I wrote a great many letters around to different people and among them I wrote C. H. Taylor to come down here. I don't think in that letter that I told him what I wanted with him. I don't think I told him the case that I wanted him to testify in; that is my recollection now. Mr. Taylor prior to that time, neither directly nor indirectly, so far as I know, ever gave me any information voluntarily against this family, or ever said anything that would lead me to believe that he knew anything of a fraudulent character connected with it. But I summoned him; perhaps the fact that I knew he had been connected with them in some way and that I perhaps also would get some information from him. Well he came in response to a letter that I wrote, and I took him up to my office. I talked to him quite a long while. He was exceedingly reluctant about giving any testimony whatever, he told me first and last that he didn't intend to testify before the Commission. He told me he had been attorney for these people, and he didn't believe he could be compelled to testify, and that is he was put upon the stand he would claim that privilege, and he didn't believe I could force him to testify. I talked to him at some considerable length; I asked him what he knew about it; of course he for a long time declined to tell me; and what information I did get from him was by piecemeal. He was exceedingly reluctant all through the interview to give any information. I asked him finally though that if the Court compelled him to testify when he got before the Commission, if he would tell the facts about it, and he said that he would. I told him then that I would subpoena him.

Well we talked quite a good while and finally after always telling me that he intended to claim that privilege, and never wanting to testify, he detailed to me the facts just as he told them on the stand; I don't believe there is the slightest variation, except that he perhaps was not so full at that time and it was told by piecemeal, but I got all those facts out of him, or very nearly all those facts out of him. He may have elaborated a little more here by examination; but he never voluntarily gave me any information at all, either directly or so far as I know indirectly. I don't think he sent any one to me. I got his name because I heard he was connected with the case, and perhaps knew something about it, like I did a great many other people, some of whom I didn't bring, because they didn't know what I supposed they did know about the case.

With reference to S. H. Benge, I want to state that he never voluntarily gave me any information at all about this case, nor did I know that he knew anything in connection with this case until I sent J. C. Starr over to S. H. Benge's place to take his affidavit on Saturday, March 15, in the W. H. and J. W. Shoemake case, and their descendants. I had heard that Mr. Benge knew some important facts in connection with the Shoemake case and I sent him over there then to take that affidavit; and when Mr. Starr came back he told me that he knew some facts also in connection with these other cases, and I was surprised to find he had instead of one affidavit, in the Shoemake case, that he also had another affidavit in the Dawson case. That is the first information I had that Mr. Benge knew anything whatever in connection with the Dawson case, and therefore he never voluntarily, either directly or indirectly gave any information prior to that time to me.

I impressed upon Mr. Taylor that the Nation only wanted the absolute truth in this matter; that it was not seeking anything else but the truth, and didn't want him to tell anything else but the truth.

I want to say again that after he was on the stand and left that evening, and after Captain McKennon, or counsel for the family, had indicated his willingness for Mr. Taylor to testify, that he went over all of these facts that he testified to on the stand subsequent to that time in the presence of J. C. Starr in my office. I simply wanted to go on the stand for the purpose of showing that Mr. Taylor hadn't voluntarily given me any information, and I make this statement for that purpose.

BY MR. McKENNON:

Q You had no power to compel him to give you any information at that time at all did you? A No sir, none other than the persuasion that I brought to use.

Q He therefore did it simply upon your persuasion? A Yes sir.

Q You knew he had been acting as attorney for these parties?

A Yes sir, I had seen from the record that he did too.

Q And he told you so? A Yes sir.

BY COMMISSION: The attorneys for the applicant and the representatives of the Cherokee Nation will be granted thirty days from the receipt of the transcript in this case in which to file a brief in this case with the Commission.

I, M. D. Green, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

(Signed) M. D. Green.

I, Arthur [illegible] Evans, being duly sworn, state that I am stenographer to the Commission to the Five Civilized Tribes I copied the foregoing, and that the same is a true and complete copy of the original.

Arthur [illegible]

Subscribed and sworn to before me this 18th day of December, 1929

B C Jones
Notary Public.

Supl.-C.D.#324.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 17, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of FRANCIS M. DAWSON, ET AL., as citizens of the Cherokee Nation:

The case having been set for final hearing March 17, 1902, the following proceedings were had:

APPEARANCES:
Mr. A. S. McKennon, of Counsel for applicants;
Mr. W. T. Hutchings, of Counsel for Cherokee Nation.

Mr. Hutchings: Comes now the Nation on the calling of this case and announces that it is ready for trial, provided permission is given to hereafter examine before the Commission, either at this place or Fort Gi son, the witness S. H. Benge, who has been regularly summoned to attend at this day and time but who is too sick to travel at this time and probably will be for sometime to come. As evidence of a good faith of the Nation we hereby present an affidavit of the facts sought to be proved by the said Benge. If the applicant's counsel are willing to concede that the witness if present would testify to the facts therein set forth, the Nation is ready to proceed to trial without reservation of any kind. If they are not it desires to reserve this privilege of hereafter, either to-morrow or otherwise, this case being set for to-day and to-morrow, of examining before the Commission, or its authorized officer, this witness as above set forth.

Mr. McKennon: Applicants object to the introduction of the paper presented and do not admit that the witness, Samuel H. Benge if present would testify to the facts therein stated. They consent and desire that the testimony of said Benge be taken before the Commission at its office in Muskogee but not elsewhere, and protest against it being taken at any other place, with the understanding, however, that when taken we have opportunity to introduce ny evidence we may desire in rebuttal.

Mr. Hutchings:
The Nation will pay all the expenses of the opposing Counsel, their client and Commission officers in taking the deposition at Fort Gibson.

Commissioner Breckinridge: The alleg ations of this witness are material in their character and are quite tangent. The Commission of its own volition would acquire information of that character if it knew of its existence anywhere. While the functions of the Commission, as well known are in many respects judicial, yet it is bodied with somewhat complex powers, such as Congress creates from time to time to do business of certain character, and it is ordered to make a correct roll, which is a duty largely independent of hearing simply what is brought before them; it must be the architect and constructor of that roll and if evidence is not brought before the Commission it must go out and get it, to be uniform on that construction of the law. The Commission, therefore, desires this information independent of any counsel on either side both with respect to the applicant and to the Nation,

and if this witness is not able to come one of the Commissioners will go to Fort Gibson and to his bed-side, or send a proper official, if necessary to take his testimony. The only matter to consider, therefore, is one of convenience with respect to getting this testimony. Now, I understand that this witness is an extreme sufferer from Brights Disease, he is an old man and he may never be ablt to get out of the house, and it may be an injustice to him to subject him to a trip here, and therefore it seems to me better that Counsel for plaintiff submit to a form of taking a deposition or else accompany an official of this Commission over to Fort Gibson and let his testimony be taken there.

After consultation with the attorneys upon the two sides it is found to be agreeable that the parties start to Fort Gibson to-morrow morning at half past eight o'clock, and it is agreed then and directed that an official of the Commission with a stenographer leave from the office of the Commission for Fort Gibson at 8:30 to-morrow morning.

FRANCIS M. DAWSON, the applicant, re-called for additional cross-examination on part of the Cherokee Nation:

MR. HUTCHINGS:

Q What is your name? A Francis M. Dawson.
Q Where do you reside? A In Afton.
Q You have been examined in this case heretofore, have you?
A I don't know which case it is.
Q In your own case? A Yes, sir.
Q Are you the one that is commonly called Bud Dawson? A Yes, sir.
Q You made the original application in the Dawson family for admission to citizenship in the Cherokee Nation, didn't you? A No, sir; my brother.
Q What was his name? A A. E. Dawson.
Q You and Robert Dawson and Elbert Dawson and others applied September 24, '81, about that time? A Yes, sir.
Q And you were admitted about the 11th of January '83? A Yes, sir.
Q There were other member of your family that applied and were admitted after that time? A Yes, sir.
Q Do you or not remember the evidence offerred in theirs to substantiate their cases was the relationship between yourself and Robert and others and the evidence of your admission by the Tahse Court. In all the subsequent admissions I mean the only evidence offerred was the fact that you and your brothers had been admitted before and that they were kin to you; that was the only evidence offerred in any subsequent cases, wasn't it; so far as you know?
A That is afterwards?
Q Yes, afterwards? A I think there was some other evidence produced.
Q Don't you know that there was never any evidence offerred in any other case except evidence of Dr. Baker, of Arkansas? A Yes, sir.
Q Who else? A Oliver Miller.
Q Who was Oliver Miller; the records in this case have been somewhat destroyed and mutilated? A Oliver Miller he lived in Arkansas.
Q What was he, who was he? A He is no kin to me at all.
Q Well, what station in life did he occupy; was he a farmer?
A Yes, sir, former.
Q Were you present when he testified? A Yes, sir.
Q Were you present when Dr. Baker testified? A Yes, sir.

Q Have you a fair recollection of the testimony of these two men? A No, not all.
Q You don't read do you, Mr. Dawson? A No, sir, I don't read nor write; I can barely write my name.
Q You think you would remember the testimony of Dr. Baker if your mind was refreshed on it? A Part of it I think.
Q Were you present when you were admitted? A I was not in the room.
Q You were in Tahlequah at the time? A I was in the town of Tahlequah at the time.
Q I will read this paper to you and desire for you to say whether or not it was the testimony of Dr. Baker in your case:
(Affidavit of Dr. Arthur Baker read to witness, and asked to be copied in the record later.)
Q Is that the correct transcript of the testimony? A It has been so long ago, I could not say; a part of it is, I could not remember it all.
Q Does that state the facts as to the family history correctly so far as you know about it? A So far as I know.
Q Now, you were a son of what Dawson? A Robert Dawson.
Q How many children did Robert Dawson have, and give me their names? A Elbert Dawson, the oldest; Lila, Jesper, Francis Marion-
Q That is yourself? A Yes, sir; Elizabeth Dawson, Josephine Dawson, John Dawson, Joseph Dawson, Jane Dawson, James Dawson, Edna Dawson, Mollie Dawson, Wilburn Dawson.
Q Thirteen? (No response.)
Q Now, Robert Dawson's father was whom? A Sam Dawson.
Q Who was Sam Dawson's wife, your grandmother? A I have been told.
Q By family history is all you know? A She was called Polly Dawson.
Q Who was Anna Pruitt? A I don't know.
Q Never heard of anybody in the family by the name of Anna Pruitt? A No, sir, that was away back in the old country; I have heard talk about it, old Dr. Baker talked about it.
Q Your grand-mother's name was Pollie Dawson? A Yes, sir; I don't remember ever seeing her but once, she died when I was small, died in Texas.
Q Pollie Dawson? A Yes, sir.
Q And she was known to be Pollie Rogers, her maiden name? A Yes, sir.
Q Daughter of Captain John Rogers? A Yes, sir.
Q Now, she died in Texas what time? A I don't remember.
Q Can't you guess at it? A Oh, I could guess.
Q Give your best recollection? A About '58 or '59, or no, '48 or '49; I don't say positive, just guessing at it.
Q How old a boy were you then? A I was born in '42.
Q Have you any distinct recollection of her? A No, sir.
Q Have you any recollection of all the children of Sam and Pollie Dawson; that is, your father, uncles and Aunts? A I didn't see all of them.
Q Do you know by family history the names of all of them? A Yes, sir.
Q Will you give them to me? A Betsy Ann Dawson, I believe her name was.
Q Did she marry a Petty? A Yes, sir; the next is Robert Dawson.
Q Your father? A Yes, sir.
Q Next one? A I think the next was James Dawson, and I think the next one was a girl Edna Dawson.
Q Did he have two daughters? A Yes, sir.
Q Well, sir? A The next was Joe Dawson; I never saw him; Riley Dawson.
Q That is Samuel R. Dawson, riley Dawson? A Yes, sir.
Q Any other one? A That is all I know anything about.

Q Did he have any child by the name of John? A Yes, Jack.
Q Didn't you get Jack misplaced with Joe? A No, it was Joe; I have heard my father speak of him.
Q Then they had seven children? A I never seed them all.
Q How many of them did you ever see? A I seed uncle Riley Dawson and James Dawson and Jack Dawson and Betsy Ann Petty; I don't think I saw but one of Pa's sisters and brother they went to Mississippi I think.
Q Do you know what your family history says that the mother of your grandmother, Pollie Rogers', name was? A We have no history.
Q Well, as it was brought down to you; did you ever hear anybody say what your great grandmother's name was? A No, I don't remember.
Q what is that other man, Oliver Miller, that testified in your case? A He testified in James Dawson's case; he never testified in my father's case.
Q Well, didn't anybody testify in your case but Dr. Baker?
A Yes, sir, several other witnesses.
Q Who were they? A I don't remember, my mother got them witnesses around Tahlequah, old people.
Q Were you present? A No, sir.
Q You were only present when Dr. Baker testified? A Yes, sir.
Q Now, do you find any mistakes in Dr. Baker's statement there?
A I could not say quite all of them was correct or not, part of it is correct.
Q What part is correct? A Why about knowing the family over there
Q Who is Buck Dawson? A My brother.
Q What is his name? A We always called him Buck, it is Elbert, E. Dawson.
Q Who went with you the first time you went up to make application for citizenship do you remember? A With my brother.
Q The first time? A I met my brother in Texas.
Q Which one? A E. Dawson.
Q That is Elbert or Buck? A Yes, sir.
Q You were living in Arkansas? A Yes, sir.
Q And he was living in Texas? A Yes, sir, and another one of my little brother's, Dr. Dawson now:
Q Dr. Dawson now? A Yes, sir.
Q What is his name? A James.
Q And you three went there? A Yes, sir.

Mr. McKennon: Applicants by their Counsel object to all the statement of this witness relating to the testimony introduced before the Cherokee Citizenship Commission, and the history of the family as detailed by him, because the same is incompetent and irrelavent, and cannot be used for the purpose of impeaching the integrity of the judgment of said Commission, or either of the Commissioners in admitting members of the Dawson family.

Commission: The objection of the Attorney for the applicants to the testimony above will be noted. The same will be filed and noted for what it is worth.

(Attorney for Applicants waives examination.)

C. H. TAYLOR, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name? A C. H. Tayler.

Q Where do you reside, Mr. Taylor? A Up near Coffeyville.
Q Were you an attorney before various citizenship Courts along in '81 to '83 in the Cherokee Nation at Tahlequah? A Yes, sir.
Q Were you attorney for F. M. Dawson commonly known as Bud Dawson? A Yes, sir.
Q Were you present at the taking of testimony in that case? A No, sir.
Q Were you present when the decision was rendered in the case? A No, sir; I wasn't present.
Q Do you know who composed the Court that decided the case at that time? A Yes, sir.
Q Who were they? A Tom Tehee and Alex Wolfe and Tommy Thompson.
Q Do you know whether or not they were all there when the case was decided? A No, sir, there were only two of them present.
Q Which two? A Tehee and Wolfe.
Q Who was Clerk of the Court at that time? A Mr. Duncan, D. W. C. Duncan.
Q Do you know what witnesses were used in the case of Bud Dawson? A No, sir; now I was the at orney in the case and the evidence had already been filed before the Court.
Q When you were made attorney? A I was only called in as an attorney at the--Well, Mr. Dawson came down there, and Mr. Bryant had the case and several other attorneys had the case and he employed me.
Q Did you read the evidence in this case? A No, sir.
Q Did you deliver any money? A Now, I was the atterney in the case and I don't think it would be right for me to make any statement.
Q Now, you have claimed your privilege, I ask that you answer the question. Did Dawson ever send you any money with the direction to pay it to either member of the Court or the Clerk of the Court, D.W. C. Duncan, and if so, state the amount? A I had a heap of trouble over this matter.-

Commission: Just answer the question, Mr. Taylor.

A Being the at:orney I don't believe it is right for me to answer that question.

Commission: Do you refuse to answer? A Yes, sir.

Q Did the matter to which you object to testifying occur prior to the rendition of the decision admitting them to citizenship or afterwards? (No response.)

COMMISSIONER BRECKINRIDGE:

Q Do you desire to reply to the last question? A I don't think it is right; I was attorney in the case.
Q Mr. Taylor, do you object to answering that question? A Yes, sir.
Q You refuse to answer that question, do you? A I had rather not answer it.
Q Either answer it or say you won't answer it? A I had rather not answer it.
Q Mr. Taylor, you have answered a number of questions down to this point, but it is at this point you prefer to plead your privileges as an attorney, do you? A Yes, sir

Com's Breckinridge: The power in regard to these matters is lodged in the United States. The Court is clothed with special power with reference to matter which arise through this Commission. ~~The Commission~~ Of Course the Commission desires and the Government needs for the making of a correct roll the fullest information possible, but it is subject to the limitations of law, and it is not for this Commission to decide of the law in a matter of this character with any authority as far as I understand it at this time, but to report the matter to the United States Court and let the Court pass judgment.

Under Section 21 of the Curties law as it is commonly called Act of June 28, 1898, the members of the Commission shall in performing all duties required of them by law, have authority to administer oaths, examine witnesses and send for papers and persons, and the Court is clothed with powers to enforce obedience. The law having enumerated certain powers goes on to say so far as all others are concerned to enable said Commission to make rolls as herein required, and to punish anyone who may in any manner or by any means obstruct said work. Now, the Commission will report the facts to the United States Court and let the Court decied whether or not you are within your lawful privilege. It seems that you refuse to answer questions, or at least one question, which tends to establish as to whether or not you are claiming what is commonly considered a matter of privilege--according to an authority referred to by an attorney, but the enforcement of an answer seems clearly to be a matter for the Court to deal with.

Q Now, Mr. Taylor, in regard to the last question asked you by Mr. Hutchings, one of the Counsel for the Cherokee Nation, I direct that you make answer, and if you refuse I shall report the matter to the United States Court; do you refuse? A Yes, sir.
Q Now, you have had read to you, Mr. Taylor, the first of the two questions propounded to you by Mr. Hutchings, and to which you declined at the time to make answer; viz: as to whether Mr. Dawson sent you money to pay to the Court or to any officials of the Court, it seems to be come to the question as to whether there was any collusion between you and Mr. Dawson and any members of the Court; now, I understand that you refuse to answer that question upon the grounds that you were Mr. Dawson's attorney? A Yes, sir.
Q Now, I require that you answer th at question, do you refuse?
A Yes, sir.
Q I shall also report that refusal to the United States Court as it seems to come under the provision of law, relating to a conspiracy between you and Mr. Dawson which apparently is not considered a provilege matter, and you base your refusal now, not upon the ground that you are incriminating yourself, but that you were Counsel for Mr. Dawson. I will report the matter to the Court and you will be informed at due time of any proceeding in the matter I caution you not to talk to Mr. Dawson or any of the applicants in this case.

Mr. McKennon: Applicants do not object and have not objected to the witness answering on account of his privilege as an attorney or for any other cause whatever, they only want to object to the incompetency and irrelavency of the testimony, with a privilege of cross-examining upon any testimony given by the witness.

COM'R BRECKINRIDGE:
Q You still refuse having the consent of the attorneys in the case to make answer? A I will just ask your Honor to let the matter go over until morning.
Commissioner Breckinridge: It will rest until in the morning at its present status; it is after business hours now.
As for the objection made by Captain McKennon, Counsel for the applicant, it will be taken into consideration, but will not be granted at the present.

(The Commission adjours until 1:30 P.M. to-morrow afternoon, March 18, 1902.)

Supl.-C.D.#324.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., March 19, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of FRANCIS M. DAWSON, ET AL., as citizens of the Cherokee Nation:

Appearances:
Mr. A. S. McKennon, of Counsel for Applicants;
Mr. W. T. Hutchings, of Counsel for Cherokee Nation.

SAMUEL H. BENGE, being duly sworn, testified as follows on part of the Cherokee Nation:

MR. HUTCHINGS:

Q State your name. A Samuel H. Benge.
Q Where do you reside? A Fort Gibson.
Q How old are you? A I am 70 years old, going on 71.
Q Are you a citizen of the Cherokee Nation? A Yes, sir; Cherokee by blood.
Q State what official position you have held in the Cherokee Nation and what your general connection with the Nation officially in the last 40 years? A Well, I have had several; I have been Sheriff, Councilman, Senator, Delegate to Washington; had a hand in making the treaty of 1866, I am the only one living that signed that treaty; President of the National Council of different tribes of Indians.
Q Were you acquainted with F. M. Dawson, commonly called Bud Dawson? A Yes, sir; I know him.
Q State your connection with and what you know about his citizenship case before what is known as the Thomas Tehee Citizenship Court?
A Mr. Dawson come down, I was living down below here, he come and employed me to tend to his case and we went to Tahlequah, I believe if I ain't mi staken in 1881 and filed his case there; we went several times and continued his case on for the want of evidence, and finally while we was up there we run across one old darkey by the name of Tosh Rogers; we got his testimony and after we got that testimony we concluded that it was sufficient to go into the trial with. Tosh lived here at Fort Gibson, he was a horse trainer down here and stayed here; he claimed that he knew the Rogers and belonged to one of them and after that we thought we had sufficient evidence we submitted out case to the Court for trial, and the Court went to work and rendered a decision against Mr. Dawson. I told Mr. Dawson right there that "our cake is dough", just made that remark, and he just made the remark "never mind", and next morning they taken up his case again and they rendered a decision in his favor. I filed no motion nor any evidence at all whatever; I give the case up right there and the decision was then given in his favor, and on our way back from Tahlequah, why wegot to talking about the case and I told him: "it was a pretty hard blow when they rendered that decision against us." He said: "yes, but Duncan was the man to reach" but he reached him with five hundred dollars.
Q What position did Duncan occupy? A He was Clerk of the Court.
Q Duncan an educated man or-? A Yes, sir; he was an educated man.
Q Who were the members of the Court? A Tom Tehee, Alex. Wolfe and Tom Thompson.
Q How many of those could speak english at all? A One.
Q Which one? A Thompson.
Q Who was the attorney that represented the Nation in those cases?
A Why Sanders.
Q What was his given name, Wilson Sanders; was it Wilson Sanders?
A Wilson Sanders.
Q Was he an educated man, or could speak english well? A No, sir.

Q Did Mr. Dawson say anything about the matters having cost him a good deal of money? A He said it has cost him a right smart.
Q Was any remark made on the way back about the opening up of the case and if so what? A He asked me if I thought the case was ever investigated eventially and I told him I didn't know.

MR. McKENNON:

Q Were you ever a witness in the Dawson case, Judge, in any of these investigations that have been made since that time?
A I don't know that you might call it a witness; that young man come to me once up at Tahlequah and asked me to help him up there ~~with the matter~~ that the case was going against him, him and his mother and all was about knocked out and I interceded and done what I could there before the Comittee. I was not a witness but that is what I don't for him.
Q That was Mr. Graham wasn't it? A Yes, sir.
Q Have you had conversations with Mr. Graham since that time about it? A Now, I ~~mbbbx~~ might I don't recollect, I might have had conversations with him.
Q Well, after the Dawes Commission began taking a census of the Cherokees and when they were about Sallisaw down here, did you have a conversation with him here in Fort Gibsion about the matter?
A Now, I just can't tell you; I have seen him on several occasions, but the conversations we might have had I can't state.
Q To refresh your memory I will ask you if he did not tell you that they were making a fight on the Dawson famly and he wanted to know of you whether that judgement in favor of Robert Dawson's family was fairly rendered, and did you not then tell him that it was all right that it was fairly obtained? A Not as I recollect of; all he was; that is as I have stated he talked to me in regard to his mother, himself and probably his brothers and sisters, I don't recollect how many there were, but he told me they were rejected, that is just the words he used.
Q When? A It has been sometime ago.
Q Here in Fort Gibson? A Well, that is I saw him here in Fort Gibson and then I saw him in Tahlequah.
Q Well, did he here in Fort Gibsion asks you particularly about the Robert Dawson judgment, as to whether it was fairly obtained or not?
A No, sir; he was basing his claim on the Dawson case, that is the way he-
Q That is the principal Dawson family? A Yes.
Q When was this other written statement here made, when was this made by you (referring to affidavit heretofore referred to)?
A Yesterday I reckon.
Q Who came to take this? A Mr. Starr.
Q Who else was present when this was taken? A No, sir.
Q Whom had you told about this matter, Judge? A No, one as I know of.
Q Do you know how it was that they knew that you know this?
A No, sir.
Q You never made any statement? A Never made any statement that I recollect of except I might have talked with Scales, me and him talked about these cases a good many times; if I ever made a statement it was to Joe Ab Scales.
Q How did Mr. Starr know? A I could not tell you how Mr. Starr knew.
Q He came along here as a Notary Public? A He came along here as a Notary Public. All he said when he come, he says "we under stand that you know something in regard to these cases", I said "what case," and he went to work and named Shoemake case and Dawson case.
Q And thereupon you made this statement? A He said he wanted to qualify me.
Q Are you certain Judge that after the rendition of that judgment

Mr. Dawson came back here to Fort Gibsion with you?
A Yes, sir, we was together.
Q Let me ask you if it was not a very cold day when he came here and he went over ahead of you and you went over to Tahlequah the next day or two after he left? A My recollection was he and I went together.
Q And returned here together? A Yes, sir.
Q Did he not leave you there and go back direct to Arkansas?
A No, sir, we came here together. If my memory serves me right, I might be mistaken but then I don't believe I am, he came from Webbers Falls up here to my house, that is according to his statement
Q What amont of fee did they pay you? A I don't know as that is in connection with the case whatever the money they paid me.
Q How did they pay you? A Paid me the money.
Q Who paid it to you? A Dawson there and that fellow, young fellow paid me some.
Q Mr. Graham? A Yes.
Q At the same time? A Oh, no, he wanted me to intercede for him at Tahlequah and paid me to do something for him which I did.
Q I will ask you if F. M. Dawson here did not obatain two copies of the judgment one of which you sent in a letter in which you wrot to his brother living in Texas and that brother in Texas xxone they called Buck, didn't send you $50 that they paid you? A No, if I ever got a letter of Buck whatever you might call him, I don't recollect it and if I ever got a nickel from him I don't recollect it. Old man paid me what money I got from it. I don't know nothing about his brothers; he told me he had an uncle living over in Arkansas, but not living down in Texas, I don't know about it.
Q Where did he pay you the money? A Paid it here at home.
Q Before you went out? A He paid me five dollars before we went up and when we went up yonder he paid me fifty dollars more; if you want to know what I got, I got one hundred dollars.
Q You were acting as his attorney in the case? A Yes, sir.
Q How many judges were present when the judgement was rendered?
A In his case?
Q Yes, sir. A Well, according to my recollect there was all there, but if they was not all there, Tom Thompson was sick. Tehee and Wolfe.
Q Don't you remember that they were all present? A No, I ~~think~~ they were present though.
Q Who else was present at the time? A Oh, I could not tell you, there were several people in the house; could not tell you at all.
Q Were there several in the house the evening before that the judgment was rendered against them as you say? A Yes there were several in the house.
Q And several in the house when the judgement was rendered the next day? A I don't know how many there was.
Q Do you remember the names of any of them? A Why not exactly, mostly full bloods.
Q How long did you remain out at Tahlequah on that trip?
A I guess I was there about three days.
Q Tending to this case alone or did you have other cases?
A No, sir.
Q Do you of your own knowledge that the judges received any money
(This question asked at the instance of Mr. Graham present)
A I don't know whether the judges received any or not.

---oooOOOooo---

I, J. O. Rosson, do hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings had this day in the above case, and that the foregoing is a true and complete transcript of my stenographic notes thereof.

J O Rosson

March 18, 1902. Commission convened pursuant to adjournment.

Appearances:
Mr. A. S. McKennon, of Counsel for applicants;
Mr. W. T. Hutchings, of Counsel for Cherokee Nation.

C. H. TAYLOR takes the stand and continues his testimony.

BY MR. HUTCHINGS:

Q Mr. Taylor, you said you would consider the matter yesterday and let us know whether you would answer those questions to-day; have you decided what you would do about the matter? A Well, it is like this, of course I don't want to be held as in contempt of the Court.
Q You would be held in contempt and the other Court would make you answer? A That being the case of course I would make a statement.
Q Are you acquainted with Mr. D. W. C. Duncan, ~~ex~~ the Clerk of what is called the Tehee Citizenship Commission Court?
A Yes, sir.
Q Did you ever have any conversation with him about letting him know of the different character of cases that would come up before the Court that you knew of, whether they were good ones or bad ones?
A No, the only thing that ever come up in that respect; he asked me if whenever large cases that would come up before the Court to let him know it.
Q Did you have any talk with him about the Dawson case during the progress of its trial or before and ever introduced Mr. F. M. Dawson to him, or carry him to him? A I spoke to him when Mr. Dawson came to Tahlequah to see about his case, and he said that he would take the papers over to his room, the Dawson papers.
Q Did you see him again that night? A Yes, sir; after supper I went down to his room.
Q Did he ask you about the Dawsons or Dawson case? A He asked me where Dawson was.
Q Which Dawson are you referring to now, F. M. Dawson, known as Bud Dawson? A Bud Dawson.
Q Well, what did you reply to him? A I told him that I thought he had gone to church.
Q Did you find Dawson after church? A Yes, sir, he told me to come and bring Dawson down and I did so; Dawson was in church.
Q You carried Dawson to him? A Yes, sir.
Q Did you remain during the conversation? A Only a minute.
Q What was said if anything while you were present? A Mr. Duncan spoke to Mr. Dawson and says "there is ~~h~~ a hitch in your evidence."
Q Go ahead and state what else he said? A He said "if that was straighened out it would be all right," and I turned and went away, I says "gentlemen, I will go home."
Q Did you know of their having any other conversation or communication after that? A No, sir.
Q You left them there together yourself? A Yes, sir.
Q Did Mr. Dawson give you any directions the next morning about submitting the case? A Yes, sir; he asked me to call ~~it~~ up the case.
Q The next morning? A Yes, sir.
Q Had there been any additional testimony offerred? A No, sir; there was no additional testimony offerred.
Q He told you the next morning to call up the case? A Yes, sir.
Q Was it called up and submitted the next morning? A Yes, sir.
Q Now, how many members of the Court were there present that morning? A There were only two, two full-blood Indians.
Q Could they speak english at all? A Tehee could talk a little, talk some.
Q Did that Court have open sessions all the time or what is called executive sessions sometimes? A Well, I don't remember

about that; it was generally when the case was submitted the attorneys would go out. The parties would go out and they would determine the case.
Q Well, did they go into that sort of executive session the next morning on the Dawson case? A Well, we went out when the case was submitted.
Q And was the decision rendered that morning in their favor?
A Yes, sir.
Q Who notified you of the decision of the Court? A Why, Mr. Dawson.
Q Do you remember whether he went out with you or was in there during the consideration of the case? A I think he went out with me.
Q Did you at any time thereafter receive any money, checks or other evidence money from Mr. Dawson with direction to turn it in part over to D. W. C. Duncan, the Clerk of that Court? A Mr. Dawson gave me 20 dollars and said he would send the balance in a short time; said he would send some more money in a short time.
Q Well, did he send any money afterwards? A Yes, sir; in the course of ten days or two weeks he send a hundred dollar check, draft.
Q what did he direct you ~~xxx~~ to do with it? A He directed me to give Mr. D. W. C. Duncan half of it.
Q Did you give him half of it? A Yes, sir.
Q Did he send you any at any other time after that?
A Well, in the course of couple of weeks he sent me hundered dollars more.
Q Did he direct you to turn any of that and if so how much, to D. W. C. Duncan? A He told me to give him half of it.
Q Did you give him half of it? A I did, sir.
Q Do you remember whether ~~one~~ Dr. Arthur Baker was the principal witness in behalf of the Dawson case? A No, sir I don't, because I never had any connection with the case, but I heard that he was a witness in the case.
Q No argument was made when you submitted the case? A No, sir.
Q Just submitted it on the testimony? A Yes, sir.

MR. McKENNON:

Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q Were you born and reared in the Cherokee Nation? A No, sir; I was born in the old Nation.
Q When did you come to the Cherokee Nation? A Come here in 1866.
Q How long have you been practicing law in the Cherokee Nation?
A I think since '68.
Q You have done a great deal of citizenship business haven't you?
A Yes, sir.
Q You were in the United States Court at Fort Smith on charges in regard to the citizenship business, were you not? A Yes, sir.
Q Were you convicted there? A Yes, sir; I was convicted there on this very case.
Q And served a term of what length? A I was sent to the jail hospital for sixty days and I stayed in about 38 or 39 days, and I was released.
Q when was that? A I don't remember how long ago it has been.
Q You say it was in regard to this case? A Yes, sir; this case was the bone of contention; Clem Rogers and the Chief , they are the ones that had me arrested, carried to Fort Smith.
Q Well, now, were you charged with an offense against the law in this case, or was it in regard to some other case?
A Well, it was in regard to using the mail for fraudulent purpexes.
Q Sending out propositions and obtaining cases ~~x~~ for citizenship for people in the Cherokee Nation? A No, sir, it was for answering correspondence.
Q Not relating to this case at all? A Well, this was the main

charge, Clem Rogers went before the Court there and stated that I had got in at least three hundred Dawson; that they were white people and not entitled to citizenship and that was the main trouble.
Q Well, now, was the charge based upon that or was it based upon your letters you sent out to other people? A That was the charge for using the mail for fraudulent purposes.
Q The use of the mails for fraudulent purposes not in connection of this case, was it? A Not particular of this case.
Q Then the trouble you had was the prejudice of Clem Rogers and others caused by your connection with the Dawson case; that is what you mean to say? A Yes, sir.
Q Why did you say because you were charged with an offense based upon this case? A Well, the prejudice grew out of this case.
Q Now, then, you had full conversation with the representatives of the Cherokee Nation as to your testimony in this case, did you not before you came on the stand? A Yes, sir.
Q You had told them of these particulars before you came on the witness stand did you not? A Yes, sir.
Q Yet when you came on the stand you assumed to have conscientious scruples as to answering as to matters which occurred between you and your client, Bud Dawson, in relation to this matter and declined to answer claiming your privilege as an attorney, did you not? A Yes, sir; I didn't want to make a statement at all in the matter.
Q You had voluntarily made a statement to the representatives of the Cherokee Nation? A Yes, sir; I had stated to Mr. Hastings; he summoned me and I come down here and I didn't want to make a statement to him but he insisted.
Q He had no power to compel you to make a statement? A No, sir.
Q You could then make it very freely and your conscience did not hurt you, but when you came on the stand you were very conscientious about it? A I didn't want to make a statement at all unless I would be put in jail here if I didn't.
Q But you had armed them with information by which they could ask you these questions when you came on the stand? A I had told Mr. Hastings.
Q You knew when you gave him that information that you would be brought on the stand as a witness, did you not, by reason of that? A No, I didn't know that I would be compelled to make a statement in the matter, a sworn statement.
Q You thought you would not be compelled to answer?
A I didn't think the law would compel me to make a statement.
Q Why then did you make a statement to him about it? A Oh, he was asking me about it and I told him that I didn't want to make a statement, and I didn't for quite a while after I came down here.
Q When the enrollment Division of the Dawes Commission was in Tahlequah in the winter of 1900, did you not there meet F. M. Dawson and did you not then and there say to him "I told Shoemake I would be for him if he would employ me in his case and if he didn't I would be against him, and the same to you?" A No, sir, I said to him this; I says that if there is not something done that I will likely be summoned against you and Mr. Shoemake both.
Q What did you mean by that? A Well, I just meant this, I just left the matter with him to say what he wanted to do in the matter; I only spoke a word to two about it. I was going out of town just as he came in.
Q When you told him if something was not done you would be summoned as a witness against him; what did you mean by that? A Well, I just meant that the chances were that the Nation would summons me against him.
Q What did you mean by the expression "if there was not something done" that you would be subpoenaed as a witness?

A Well, I meant this, if I was re-employed in the matter if he was to have a case and I was re-employed I would not be required.
Q You could be required to make a statement as to declarations made to you by your client in one instance, but if a little more money was put up you could not be required to make a statement; is that what you mean? A I didn't think I could be forced to make a statement at all in the matter.
Q Why did you make that expression to him "if something wasn't done, you might be summoned as a witness" if you believed that you could not be made to make a statement? A I meant if I was employed in the case.
Q If he would put up you would not testify? A That they could not force me to testify.
Q About the month of February, 1901, in the town of Wagoner, Indian Territory, did you not send your son to get Graham to come to the hotel at night, and did you not then and there say to Gid Graham; "you people are on the doubtful list and if you will give me $500. I will make it all right and see that you are enrolled and if you don't I will see that you don't get on"? A No, sir; I got a letter from Gid Graham in which he asked me to certify that the case was all right and after I met him I told him that I could not do it, that the case was crooked; he then said to me, he says "I will give you a hundred dollars", he says, "will you take a hundred dollars," I said "no, sir." I didn't make any bid, that is I didn't set no price with him.
Q You did not say to him then what I have embraced in that question there? A No, sir.
Q You did have a conversation with him about that time and at that place, did you not? A Yes, sir.
Q You say you didn't make any bid or set any price?
A No, sir, he offerred me a hundred dollars.
Q Why did you send for him to come to the hotel? A In answer to his letter.
Q Did you not on yesterday morning on the street in Muskogee, Indian Territory, in a conversation with W. H. Shoemake say to him: "You have made a great mistake in not keeping me in your employment and so have the Dawsons and it will go hard with you and you will see it"? A No, sir; I said to Mr. Shoemake, I says: "who have you employed in your case," and he says "Judge Thomas and Mr. Owen." I said "it might have been a advantage to you if you had retained me in your matter;" Well, he says "there was nothing wrong in my case" and I says "no, there is nothing wrong on earth in your case that I know of." He said all he wanted was justice and I said "I don't know a thing on earth against you," and I says "there is not a thing on earth wrong in your case as I know it came up fairly and squarely and decided in your favor."
Q You said nothing to him about the Dawson case? A Yes, I said to him "it might have been well if the Dawsons had retained me in their case." I said "I am summoned on the part of the Nation and I don't want to make a statement and I wont if I possible can avoid it."
Q Was that before or after you talked with Mr. Hastings, the repres entative of the Nation? A It was afterwards.
Q You meant by that if you had refused to answer you would have gone to jail? No, sir; it they had employed me before hand I meant not now.
Q You mean then if they had employed you before hand you would not have given this information to Mr. Hastings? A I would not be required, being the attorney.
Q Were you required to give him the information; did you know that you had to give him any information? A Who do you mean.

Q Mr. Hastings. A I did refuse him and he insisted.
Q Well, he had no authority to compel you to do it? A No, sir; I don't know whether he did or not.
Q As a lawyer you knew that he did not have authority to compel you to make a statement to him? A I told him that I was an attorney in the case and I didn't want to make any statement at all.
Q Why did you do it? A Well, he intimated to me it would not go any further. He said to me "I will not make this matter--I will not use it;" that is,what I stated to him was part in confidence.
Q And he pledged you his word that it would not be used? A Well I told him I could make a statement in confidence, and that I didn't want to make a statement before the Court.
Q Well, what did he reply, as you said just now? A Oh, he says make the statement, and then I told him--I regretted very much to do it, and I regreat very much to make a statement here. I tried to avoid it yesterday.
Q You stated just now that he said it would not be used; did he say that or not? A Well, something to that amount; oh, he says it won't make any difference or something to that effect.
Q Now, don't you know that Mr. Hastings did not intimate to you that the statement he was asking you to make would not be used?
A Well, I didn't think that I could be forced to make a qualified statement before the Court here, because I thought my license would protect me in that matter.
Q Yet it did not protect you or prevent you from makeing a statement to the attorneys for the Nation? A No, sir.
Q Now, in this conversation with Shoemake to which I before referred did you not ask him to again employ you and tell him if he would that you would make it all right for him A No, sir, I didn't say that; no, I said if he had employed me in the matter "maybe it would have been better for you." Now, he offerred me when I was down here last week, he offerred me five dollars to go down and talk with his lawyers on the matter, I didn't go I was busy.
Q That was not your price? A No, no, I had nothing to say in his case that would be to his advantage; I knew nothing against him.
Q Now, then you say that you were present on the morning that the judgement was rendered in favor of the Dawsons? A I was not in the Court house.
Q You were present in Tahlequah? A Yes, sir.
Q How long had you been at Tahlequah? A I was living there at that time.
Q When were you first employed by them? A By Dawsons?
Q Yes, sir. A The evening before the case was tried.
Q You say that after the judgement was rendered Dawson handed you $20? A Yes, sir.
Q And told you to hand it to Duncan? A No, sir.
Q What was your statement? A That he paid me $20 and says"I will send you some more in a short time, week or so."
Q And then he sent you $100? A Yes, sir.
Q And wrote you to give D. W. C. Duncan $50 of it? A Yes, sir.
Q And then sent you another $100 and told you to give him half of it? A Yes, sir.
Q How much did they pay you? A Well, that was the agreement, was that he would pay me $50 a family.
Q How much did he pay you? A I think that there was $250; now I am not sure about the $50, but it appears to me like there was a $50 sent, and Mr. Duncan asked me, as well as I remember, says "have you got a letter From Dawson," I told him "yes, sir." It was either that or the $100, and he says "I would like to have some money", and I went to Stapler's and got it changed--I won't be sure

about it being $50 or $100--I went to Stapler's and got him to cash the check and give him his part of it.
Q How much did they pay you for your services? A That is all I got.
Q How much? A I think it was $100, $120.
Q What did you do for them? A Didn't do a thing only called up the case and submitted it; never read the evidence.
Q Submitted it without remarks? A Yes, sir.
Q And for that you say they paid you $120? A Yes, sir; $120.
Q Was Houkston Benge present when that was done?
A No, sir, I don't think he was.
Q Did you see him then at that time in Tahlequah? A I don't remember.
Q Were you associated with him in any manner in connection with the case? A No, sir.
Q You had a great deal of business of that character, have you before the Courts? A Yes, sir.
Q Were you paid like fees in other cases for like services?
A Yes, sir.
Q In many of them? A Yes, sir, good many.
Q All like cases? A Oh, citizenship cases.
Q When was it you were in jail at Fort Smith? A I don't remember; Mr. Mellette can remember, he was there; he was my attorney.
Q Was it not about 1893? A It was somewhere along there, along in 1890 somewhere.
Q That has been your principal business as a lawyer, has it not?
A Yes, sir.
Q You have never practiced much in any other way have you?
A Very little.
Q Were you in the habit of working your cases through in the same manner in which you state you worked this through? A No, sir.
Q This was an exception was it? A I never worked this case through. I simply called the case up by request of Mr. Dawson. I never read the evidence; don't know what proof there was in it; he just asked me to call the case up.
Q And he agreed to pay you $50 a family for doing that?
A Yes, sir.
Q Was that what you required of him? A That is what he agreed to pay. I says "what will you give?" He says "I will give you $50 a family."

MR. HUTCHINGS:

Q At the same time that the Attorney for the Nation was talking to you about the Dawson case he also made inquiries about the Shoemake case didn't he? A Yes, sir.
Q And you told him at that time before you knew anything about whether you would be compelled or made to testify that so far as you knew there was nothing you knew detrimental to the Shoemake case?
A Yes, sir; that is what I said.
Q You told him at the same time that you not only expected to claim your privilege as an attorney in the case, but that you told him, Mr. Hastings, with the full believ that the Court would sustain your position? A Yes, sir.

Mr. McKennon: That is very leading.

Q Now, did you think that the re-employment, being the attorney in the pending case would strengthen your position or weaken it, when you spoke to Mr. Dawson? A What I thought in the matter was before ever I would be summoned in the matter, a long time ago, that if I had been employed in the matter of course my position would have been such that I would not have been required or could not have been forced.
Q Did you think under those circumstances that Mr. Hastings would approach you about the subject? A No, sir; I didn't think I would be forced to, having license to practice law.

Q Did Mr. Hastings at the time tell you that he was going to put you on the stand? A Yes, sir.
Q And let the court decide? A Yes, sir.
MR. McKENNON:
Q Now, have you a license to practice in the United States Courts?
A Yes, sir.
Q In the Territory? A Yes, sir.
Q And also in the Indian Courts? A . Yes, sir; do you want to see them?

JAMES W. LEWIS, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name, please? A J. W. Lewis.
Q James W. Lewis? A Yes, sir.
Q Where is your post office, Mr. Lewis? A Afton.
Q How old are you? A 73 years old.
Q What is your business? A I work at the tin business and gun work.
Q Do you know one James Dawson, the brother of F. M. Dawson and the other Dawsons? A I know old man James Dawson.
Q That is the one I mean, old man James Dawson? A Yes, sir, I know him.
Q How long have you known him? A Well, some four or five years, I guess.
Q How long? A Four or five years I think.
Q When did you come to the country? A I have been in the country 30 odd years.
Q Well, when did he come to the country, do you know?
A Along about somewheres in eighty if I recollect right, might have been later than that.
Q How did you happen to get acquainted with? A He lived right close by me and I built a house for him.
Q Did you have any conversation with him at the time you built that house? A Yes, several different times.
Q About how he became a citi zen of the Cherokee Nation, about the circumstances? A Yes, sir.
Q Did he make any statement to you abou t the use of money in getting his citizenship, and if so, state what he said?
A Well, he told me that it cost him $700 to get his rights.
Q Didn't tell you to whom he paid it? A No, he didn't and I didn't ask any questions.
MR. McKENNON:
Q How old was he at that time, do you know? A I do not know exactly, must have been somewheres near about 70 years old, he might have been older than that, I don't know.
Q He was a very old and feeble man? A Yes, he was old and feeble.
Q He seldom ever got out away from his home? A No, sir; only short distance.
Q When you first knew him he was that kind of man?
A Yes, sir.

J. L. CLINKENBEARD, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name? A J. L. Clinkenbeard.
Q What is your post office address? A Vinita.

Q How old are you? A 56.
Q Were you ever an applicant for citizenship before the Tehee citizenship Court in Tahlequah? A Yes, sir.
Q About what time was that? A September '81, I think.
Q Did you meet there about that time one Elbert or Buck Dawson?
A Yes, sir.
Q How did you happen to meet him? A He and I stopped at the same place, man's by the name of [illegible]
Q You and he stopped there, did you, beard there? A Yes, sir.
Q Well, did you have any talk about citizenship cases, yours and his? A Yes, sir.
Q Where did he state that he was from? A Texas.
Q Well, state what you can remember of the conversations between you from time to time about citizenship in the Cherokee Nation?
A Well, we were there on the same business and we talked about it at different times, and in talking about the evidence that we had there I, of course, told him how many witness I had and what I could prove and so on, and he said that he didn't have but one witness, Dr. Baker from Arkansas, a man that was 85 or 90 years old, he said, and he hadn't come and said he was to have met him there, but he hadn't come.
Q Well, what did he say about the Doctor's knowing anything?
A Well, he said he was 85 or 90 years old and didn't know straight up.
Q He said he didn't know straight up? A Yes, sir.
Q Well, did he say anything about giving ~~some whisky~~ him whisky?
A Well, he said he could give him four drinks of Arkansas whiskey and he would swear that black was white.
Q Did he say anything about what money would do in Texas or Indian Territory? A Well, in talking about the evidence, he said that money was what made the mare go down in Texas and he said "I come to get the lay of the land" and he says "I found out it goes here," or words to that effect.
Q Did he say what he had to spend on the question? A Well, he said that he could stand a thousand dollars on it and not be hurt verymuch; finally he said he could stand more than that.
Q What did he tell you what he thought about the necessity of witnesses anyhow? A Well, I don't know as he said as to that, but I understood from what he said that he thought money would beat witnesses.
Q Well, where did he go from there? A He and I left there together; he come to Muskogee by way of Fort Gibson and there we parted.
Q Did you ever see him after that? A I saw him about two years or something like that afterwards.
Q Where? A Vinita.
Q Did you refer to the citizenship matter? A I asked him how he come out and he said all right.
Q Was he deformed in any way this man? A He had a crippled hand or stiff finger; I don't remember just what it was now.

MR. McKENNON:

Q Your first conversation with him then was in '81 was it?
A Yes, sir.
Q What time in '81? A September.
Q You were then an applicant for citizenship? A Yes, sir.
Q Were you admitted? A No, sir.
Q You are still an applicant? A No, sir.
Q You are still working to get in as a citizen of the Cherokee Nation? A No, sir; haven't quit it entirely.
Q What business are you in now? A I am running a dairy in Vinita.
Q When did you make these statements now to the representative of the Cherokee Nation? A Well, sir, I haven't; I say Mr. Hastings

I believe here last Saturday the first time.
Q How did they ever know that you had had these conversations with Mr. Dawson? A I don't know.
Q You don't know how they found that out? A No, sir.
Q You say you saw Mr. Hastings here last Saturday? A Yes, sir.
Q Now, did you approach him or did he approach you? A He approached me.
Q You know why? A No, sir; I suppose somebody I have told someone at some time about this, I don't know when or who. I don't remember of having talked to anyone about it. I have saw Mr. Hastings for years.
Q Now you say--how was that expression about his giving Dr. Baker three or four drinks or liquor? A He said the old man; he said that Dr. Baker, he was expecting him there and he didn't come, and he said he didn't care where he did or not; he said he was 85 or 90 years old; he said he didn't know straight up, said he could give him three or four drinks of Arkansas whiskey and he would not know black or white.
Q Now, he said that did he? A Yes, sir.
Q You are just as positive of that as you are of any other statement he made are you? A Yes, sir.
Q You say you next saw Dawson at Vinita? A Yes, sir.
Q How long afterwards was that? A About two years, I think something near that.
Q Did he move to the Territory? A Yes, sir, he lived at Vinita at one time.
Q You speak about having a dairy business there at Vinita, to what extent? A I am only milking about four cows now, I sent the others to the country.
Q Do you run a dairy wagon there? A No, sir.
Q You serve on the jury a good deal? A I have been serving on the Petit jury there this winter.
Q Generally? A No, sir.
Q Are not you a kind of a professionals juror? A No, sir; I was on the regular petit jury, I was on the regular panel and served.

C. G. BRAUGHT, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name? A C. G. Braught.
Q What is your age? A 62 29th day of last January.
Q What is your post office? A Fairland.
Q How long have you been living in the neighborhood of Fairland?
A Been living there 19 years.
Q Do you know one Bud Dawson or F. M. Dawson as his name is?
A I do.
Q How long have you known him? A About 18 years.
Q How close do you live from him? A Half a mile of him.
Q Does he still own that place? A I think he does.
Q Were you an applicant for citizenship along about '81 or '2 at Tahlequah? A Yes, sir.
Q Did you have at any time a conversation with Bud Dawson about his and your citizenship cases? A Yes, sir.
Q State what he stated to you of citizenship cases in general and about his own in particular; you can state the time that you had these conversations as near as you can? A Well, I think it was in '83, he told me if I ever got in I would have to put up; he said it cost him $700 to get in; he said he paid one witness three hundred dollars.

Q Did he state the name of that witness? A No, he did not.
Q Whom did he say he made arrangements with? A He said he made arrangements with the Court; that is, heads of families to get them in at one hundred dollars apiece.
Q Do you know what time of the year that was, whether it was in the summer or not? A I think it was in June.
Q Did he make any other statement to you at any other time?
A No, sir, I don't think he has in regards to that matter.
Q You have been living neighbors with him? A Yes, sir.

MR. McKENNON:

Q You say this was about June of '83? A I think it was in June, 1883; I won't be positive whether it was June or not.
Q You were an applicant; were you admitted? A No, sir.
Q Have you been admitted? A No, sir.
Q You are still an applicant? A Yes, sir.
Q Still trying to get in? A Yes, sir.
Q Where was this conversation had? A Had at Bud Dawson's house.
Q What part of the premises; that is, in his residence?
A Yes, sir.
Q In the house? A Yes, sir.
Q Who was present? A There wasn't anybody present; he just built the house and there wasn't anybody there.
Q Was there more than one room? A I won't be positive but I don't think there was but one room, log house.
Q Just one room? A Yes, sir.
Q And in that room he made this statement to you? A Yes, sir.
Q That was after they were admitted? A Yes, sir.
Q He and you are enemies are you not? A No, I don't think we are enemies.
Q You are not friendly at all? A Friendly part of the time, and part of the time we ain't.
Q Haven't you had considerable trouble about the lands between your farms? A No, sir, we ain't had any trouble.
Q Didn't you have his little boy arrested recently for a difficulty? A Yes, sir.
Q And you say that you are not on bad terms with him?
A Why we speak, have converstation, have right along all the time.
Q Is it not a fact now that you and he have been all the while at outs? A No, sir.
Q You don't have any unkind feeling towards him? A No, sir.
Q What were your other remarks? A I said no, sir, I didn't have any unkind feeling towards him.

(It being 5 o'clock, the Commission adjourns until 8:30 o'clock to-morrow morning.)

March 19, 1902.
Commission convened pursuant to adjournment.

Appearances:
Mr. A. S. McKennon, of Counsel for Applicants;
Mr. W. T. Hutchings, of Counsel for Cherokee Nation.

C. G. BRAUGH, re-called, further testified:

MR. McKENNON:

Q Mr. Braught, you were ~~an~~ a claimant under the Watts family are you not? A Yes, sir.
(witness excused.)

CHARLES D. KENNEY, being duly sworn, testified as follows on part of the Cherokee Nation:

MR. HUTCHINGS:

Q State your name. A Charles D, Kenney.
Q Where is your post office? A Dawson now.
Q Are you a citizen of the Cherokee Nation? A Yes, sir; supposed to be.
Q Recognized as such are you? A Yes, sir.
Q How old are you? A There is no family record, my parents died when I was young, I just guess at my age, I am somewhere as between 44 and 45 years old.
Q Were you personally acquainted with one Elbert of Buck Dawson?
A I knew Buck Dawson when I saw him.
Q Did you know him in the State of Texas, and if so state what time?
A I knew Buck Dawson, knew him and saw him at different dates in Texas.
Q Well, in the year '81 in Clay County, Texas, did you ever see him? A It was in '81 or '82, I think I knew him in both years.
Q Did you ever have any conversation with him in the presence of Bill Smith, Jiles Flippin and Joe Pleston about his application for citizenship in the Cherokee Nation? A Mr. Dawson and Flippins were talking in regard to grass down there before me one time and it was mentioned, I was going up on the strip and Buck Dawson says "he an Indian" and Jiles said "yes, he is an Indian," and "By God," I believe is the way he spoke, "if I was an Indian I would not be punching cattle, I would have stock eating my grass."
Q What did he say about making application? A He said he was going to the Chickasaw Nation and prove up and get him some grass.
Q Who was that? A Buck Dawson.
Q Well, did anybody suggest about his going to the Cherokee Nation? Note
A Yes, sir, I told him, I says "why don't you go to the Cherokee Nation, why don't you go up home" I believe is the way I spoke it, "up amongst God's people;" and he says "are they all white like you?" and Jiles spoke up and says "majority of them."
Q Well, what did he say to Jiles then? A He says "let's go up Jiles", just in a whole crowd of cow punchers, and Mr. Flippin says "Hell, I am going; brother John is getting ready to go now."
Q Well, then what did he say to you? A He says "Who are your best lawyers up there, Kenney," and I told him "Mooley Bell was counted the breainest man in our country."
Q Well, do you know whether he claimed to have any Indian blood or what he was claiming in that country, whether white man or Indian? A No, sir, I could not say what he was; he was generally known down there as Buck Dawson, a citizen of the State of Texas, that is all I know of him. //

Mr. McKennon: The applicants object to all of the testimoney of this witness because it is wholly incompetent and irrelavent.

MR. McKENNON:

Q Were you born and reared in the Cherokee Nation? A I can't tell you where I was born; I was raised here part of the time and in Russ County, Texas. B. W. Alberty was my guardian.
Q Were you admitted to citizenship by the Council or Court?
A I think both of them passed on me; I can't tell you the date.
Q About what time? A It was sometime in '80 though.
Q What tribunal first? A I don't know; I don't know either when I was admitted, I was re-instated at Council.

Q When? A I think it was in '87 or '88.
Q Haven't you been arrested for crime and charged with crime?
A Well, I didn't know that I was on trial; I have been arrested a hundred times I guess from here to the Rio Grande.
Q For what offense? A For gambling, stealing; if I am on trial I have had lots of them, I have been on the road.

MR. HASTINGS, of Counsel for the Cherokee Nation:

Q Were you ever convicted? A No, sir.

Mr. McKennon: Applicant makes further objection to the testimony of this witness on account of his criminal character stated by him.

THOMAS B. BABHART, being duly sworn, testified as follows on part of the Cherokee Nation:

MR. HUTCHINGS:

Q State your name, please? A Thomas B. Babeart.
Q What is your post office? A Melvin.
Q What is your age? A 49.
Q Are you a Cherokee by blood? A Yes, sir.
Q Did you know one James Dawson? A Well, yes, I did; I have seen him time or two.
Q Were you in Tahlequah about the time he had an application before the Spears or Snake Puppy Citizenship Court? A Yes, sir; I was there about the time the case was settled.
Q Did you know Aaron Butler? A Yes, sir.
Q Who was he? A He was a Cherokee interpreter for the Court.
Q Do you know James Smith? A Yes, sir.
Q Who was he? A He was the Nation's Attorney before that Court.
Q Well, did you about that time have any conversation with either Aaron Butler or Jim Smith in company with Mr. James Dawson?
A Yes.
Q State the full particulars of it? A About that time this man Dawson and Butler came to me while they were all together, all three of them, and Butler came and called me off to one side, that was down at a colored church, it was after dark, and they called me off there and this man Dawson borrowed some money from me, he said he had to have it that night, his case was going to be submitted the next morning.
Q Well, did he say anything about whether he could get his case submitted if he had some money? A Well, from the language to me and Butler, he wanted this money; Smith had agreed to submit the case without further evidence in the matter.
Q Well, did you let him have the ten dollars? A Yes, sir.
Q Where did they go then? A They walked off back up towards the town.
Q Did they go together, those three? A Yes, sir.

MR. McKENNON:

Q Was that James Dawson, the leading applicant in that case?
A Yes, best of my recollection that was.
Q How old a man was he? A I don't know, I could not tell you; he looked, I don't know, he might have been--could not tell you just about how old he was.
Q Well, about how old was he, 25, 30 or 40? A Yes, he was older than that, from my judgment I guess he must have been 45 or 50 years old.
Is he living or dead? A I don't know.
Q Where have you been living? A I have been living down here near Tahlequah.
Q What was the man's name, Dawson's name? A Jim Dawson I think.
Q You are certain of that? A Yes, sir; I am pretty certain.

Q They came to you now with Smith, the Prosecuting Attorney, and Butler, the Interpreter? A Yes, sir.
Q Dawson took you off to one side? A Butler took me to where Dawson was and introduced me to Dawson and vouched for Dawson being all right for the money.
Q When did you first make a statement of this matter to anybody?
A I guess--I don't remember when.
Q How long have you been here in Muskogee this time?
A I have been here since, I was summoned here last Friday.
Q Did you ever make any statement to anybody about this before that time? A Yes, I talked to Butler about it.
Q When? A Oh, about, first I remember it has been about two years ago, and Butler was talking to me about it; it was at my house.
Q Were you born a citizen? A Yes, sir.
Q You weren't admitted to citizenship by the Courts or Council?
A No, sir.
Q You have been living in the Cherokee Nation all your life?
A Well, I was born and raised here; I haven't been here all the time, I have been out and in.
Q You have never seen that man Dawson since? A If I have I have never known it, but I seen him the next day.
Q You saw him and took a good look at him, and know about what kind of man he was? A I saw him around there about several times.
Q You think he was about 35 or 40 years old? A That would be my guess at it, my recollection.

Mr. McKennon: Applicants object to the testimony of this witness, all of it, because it is wholly incompetent and irrelavent.

DELIA A. BREWER, being duly sworn, testified as follows on part of the Cherokee Nation:

MR. HUTCHINGS:

Q State your full name? A My husband's name was O. P. Brewer, but generally I sign my name Mrs. D. A. Brewer.
Q What was your full maiden name? A Delia A. Vann; well it was really Delilah but I never was called by that name, it was De altogether in my young days.
Q What was your father's name? A His name was Joseph Vann.
Q Was he called by any nicknames and if so how many, and what?
A None but the Cherokees, the full-bloods called him Joe Aney.
Q What does that name mean when you talk english? A Rich Joe.
Q Did any of them call him ~~Big~~ Big Joe Vann? A I don't know; he was a large man; larger than the other Joe Vann.
Q There was another Joe Vann? A Yes, sir.
Q Did your father have any sisters and brothers? A He had quite a number of sisters.
Q Did he have a half sister? A Had two half brothers.
Q Did he have a half sister? A Had several half sisters.
Q Who did they marry? A Different persons; I knew the names of all of them but I have a bad memory, but I know that there was one, a Mrs. Tobie Wolfe, and Mrs. Lamer, she was first a Mrs. Nicholson and she became a Mrs. Lamer and lived in Alabama and never came to this country, but she has grandchildren in this country.
Q Well, did any of your father's sisters or half sisters ever marry a Rogers? A No, sir.
Q Never had any Rogers kind-folks? A No, sir, and I certainly would have heard of them through my family, there was a great many of the kin-folks I never saw but I heard of them.
Q The Dawson case was talked of here for many years, they claiming land

A I never knew until I understood they claimed to be kin to the Vanns, and I flatter myself that my family was prominent enough that they never claimed kin.
Q They never claimed kin at all? A No, sir.
Q Did your father ever had a sister or half sister by the name of Annie, Anna or Alsey? A No, sir.

Mr. McKennon: Applicants object to all the testimony of this witness because it is irrelavent and incompetent.

SAMUEL TOLLIVER DAWSON, being duly sworn, testified as follows on part of the Cherokee Nation:
MR. HUTCHINGS:

Q State your name. A Samuel Tolliver Dawson.
Q What relation are you to the Dawsons? A Well, I am not acquainted with none of these Dawsons, I guess I am cousin, that is what he told me.
Q Who was your father? A Samuel Riley Dawson.
Q What did you say your father's name was? A Rile Dawson.
Q Do you know what his full name was? A Samuel Riley Dawson.
Q What children had your father? A Why, he has got, you mean his first children or his whole family?
Q I want all of his children? A I don't know, I will have to count a while on them, there was nine or ten of them.
Q Just one or two of them I care for; is Mrs. Lewis your sister?
A Yes, sir.
Q Your full sister? A Yes, sir.
Q Was she a daughter of S. R. Dawson, Jr.? A Yes, sir.
Q Now, who were the parents of your father, Samuel Dawson?
A Why Sam Dawson was his father.
Q Sam Dawson was his father? A Yes, sir.
Q What was Sam Dawson's wife, if you know their famly history, what your father said or what your grandfather said? A I have heard that she was a Pruitt, my father said; of course I don't know.
Q What was her given name? A Annie.
Q Did you ever see your grandfather, Samuel Dawson? A Yes, sir.
Q Saw him? A Yes, sir.
Q Do you know about how old he was when he died? A He was somewhere up about 90.
Q About how old were you when your grandfather died?
A I don't remember exactly how old I was, I must have been somewhere near 12 years old when my grandfather died.
Q Was your father his youngest child? A Yes, sir.
Q Do you know about when your father was born? A Well, no, I don't, he died in '90 and he was about 67 years old.
Q He died in about '90 and was about 67 years old when he died?
A Yes, sir.
Q And he was the youngest child? A Yes, sir.
Q Now, do you know how many children your grandfather had, that is brothers and sisters of your father? A I heard him say seven.
Q Well, did you ever hear your father or grandfather speak of whether or not your grandmother was a white woman or an Indian? A Well, I have heard my father speak about it, i don't know that I ever heard my grandmother say anything about it.
Q Well, what did he say about it? A I have heard him say his mother was not no Indian.
Q Did your father come here and apply once for citizenship?
A Yes, sir.
Q Was he admitted? A I think not.

Q Did you hear him xxxxx make any statements about the ground he expected to get in? A He said his brothers had proved their rights here and if his brothers had any rights he did but I don't know.
Q Well, in that connection did he say whether his mother was an Indian or white woman? A Never heard him say that his mother was a white woman in speaking about that, I don't know whether he said anything about that or not; I have heard him say his mother wasn't no Indian.

Mr. McKennon: Applicants object to all the testimony of this witness because it is wholly irrelavent and incompetent.

(Taking of testimony continued by Stenographer M. D. Green)

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I, J. O. Rosson, do hereby certify upon my official oath as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

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(Continued from testimony taken by Stene.J.O.Rosson.)

March 19th,1902.atMuskogee,I.T

Appearances:
Mr. A. S. McKennon, and Mr. Mellette, attorney for the applicants;
Mr. W.T.Hutchings, and Mr.W.W.Hastings, attorneys for the Cherokee Nation.

EMMA BRASHIERS, being first duly sworn, and being examined testified as follows:
BY MR. HUTCHINGS:
Q State your name? A Emma Brashiers.
Q What was your maiden name? A Emma Dawson.
Q What was your father's name? A Samuel Riley Dawson.
Q What was his father's name? A Samuel.
Q What was your grandmother's name, so far as you knew from family history? A Her maiden name was Annie Pruett.
Q Then your father, if I understand you, was the son of Samuel Dawson and Annie Dawson, nee Pruett? A Yes sir.
Q Did your father have a brother named Robert, and a brother named James? A Yes sir, that is what I was told.
Q And had a sister named Mrs. Petty? A Yes sir.
Q Another one named Mrs. McCed? A Yes sir.
Q And another brother named John? A Yes sir.
Q What relation are you to Mrs. A.S.Lewis? A Sister.

Q Did you ever see your grandfather, Samuel Dawson? A Yes sir.
Q You have a distinct recollection of him? A I, yes, I can remember him, but I was small.
Q About how old were you you suppose when your grandfather died? A About 6.
Q Was your father's birth recorded in the family Bible? A Yes sir.
Q You know whether your grandfather's records of marriages and deaths were recorded in any Bible or not? A It was, but we haven't it.
Q What became of it? A Got burned.
Q Well about what year do you remember that your father Samuel Dawson was born? A I believe it was '23.
Q In 1823? A Yes sir.
Q And how old was he when he died, if you recollect? A He was between 64 and '7.
Q Did you ever hear your father speak of his relations, his father and mother, as to whether they were white people or Indians? A Yes sir, they were white people.
Q You knew whether in the family your grandmother was spoken of by t the name of Annie, always? A Yes sir.

BY MR. McKENNON: Applicants object to the testimony of this witness, because it is wholly irrelevent and incompetent.

ALEX S. LEWIS, being first duly sworn and being examined, testified as follows:
BY MR. HUTCHINGS:
Q State your name? A Alex S. Lewis.
Q What is your post-office? A Dawson, Indian Territory.
Q How old are you? A 59 years.
Q What was your wife's maiden name? A Elizabeth Paralee Dawson.
Q Who was your wife'sfather and mother? A Her father was Samuel R. Dawson and her mother was the wife of Samuel R. Dawson, did you want her maiden name?
Q Well, if you know themaiden name of your wife's mother, state how you knew it? A Well she was called Margarett, Margarett Queen was her maiden name.
Q The maiden name now of your wife's father's mother? A Why the maiden name of my wife's father's mother?
Q Yes sir. A From what her husband and my father-in-law told me it was Annie Pruett.
Q What was thename of your wife's father's father? A My wife's grandfather on her father's side, Samuel Dawson.
Q And his wife'smaiden name was Annie Pruett? A Yes sir.
Q Did you know the old gentleman, Samuel Dawson, your wife's grandfather? A Yes sir.
Q Personally? A Yes sir.
Q What opportunities had you to get acquainted with him? A He lived with us his youngest son, my father-in-law, and visited me, my wife and I, after we were married; stayed with us quite a while; I lived near my father-in-law and we visited very often.
Q When did he die? A '74.
Q Have you any particular method of recalling that date? A Well I was away from the house when he was taken sick, and they sent for my wife and myself, and so when I got home my wife had gone to her father's to see her grandfather, he was sick, and I remember my first wife was a baby at that time.
Q And when was your first child born? A He was born December, '73.
Q You know how old your wife's father was when he died? A Why he was up in 60, but I don't remember his age.
Q Did the old original Samuel Dawson ever tell you his age? A Yes sir, several times.
Q How old was he at the time of his death? A He was passed 94.
Q Did he ever tell you whether or not his wife Annie Pruett had any sister or brother? A Told me she only had one brother named Bob Pruett.

Q Have any of the members of the family named their children after him? A Make it a little plain, it is a little long; my wife's oldest brother was a particular favorite of his grandfather, and he always took this boy with him everywhere, and he has named one of his,- oldest child for this brother-in-law who was a particular favorite of his grandfather; named it for him I understand.
Q Now what is his name? A Of course I don't know whyhe named it, but he gave him the name of Robert Pruett, and I understand it was on account of his grandfather thinking so much of Robert Pruett.
Q Did you ever hear the old Samuel Dawson speak of his brother-in-law? A Yes sir, I have heard him say that he wished he knew what become of Bob Pruett; he never had heard of him for a long time; didn't know where he was, or whether he was alive or not.
Q Now I want the children of Samuel Dawson and Annie Pruett, how many of them did you know, first? A How many did I know personally?
Q Yes sir? A John, James, and Samuel R. These were the only ones of his children that I remember personally.
Q Well remember what you knew of the family, what other children did he have? A Wellhe had two girls, as I understand the family history, he had two girls, first, and John Dawson was the third child, and the oldest boy was John Dawson.
Q Was John Dawson the oldest boy? A Yes sir.
Q Which was the oldest girl? What is she knownas now? A I think it was Mrs. Petty, nee Bettie Dawson.
Q And John Dawson was the oldest boy? A Yes sir.
Q And Samuel R. Dawson was the youngest boy? A Yes sir.
Q You knew anything about the time that John Dawson was born, have you any way of coming at it, the oldest boy? A Yes sir, I know what the oldest son and his wife told me.
Q What was that? A They said he was born in 1811.
Q Who was his oldest son? A Toliver H. Dawson; told me his father was born in 1811.
Q Do you remember now whether the old man had occasion to say whether his wife, Annie Pruett was Indian or white woman, or ever said anything about it? A I know what the old man said that she was, I don't know that I ever heard the question approached in that way, I have heard him speak as to her blood, but it was in a different way that he reached it.
Q What blood did he say she was? A Well he said that she was the daughter of Mrs. Pruett, a white woman; that is, her mother was Mrs. Pruett, a white woman, and that her father was Captain John Rogers, a white man who lived with the Cherokee Indians, and traded with them.
Q Did he say who Captain John Rogers afterwards married? A Said he had a wife in the Cherokee Nation.
Q But that Annie Pruett was not her child? A No sir, she was the child of Mrs. Pruett.
Q A white woman? A Yes sir, that was the half sister of Bob Pruett.

BY MR. McKENNON:

Applicant's object to all of the testimony of this witness, because it is wholly incompetent, and irrelevent.

Q Did ever you apply for citizenship here? A Yes sir, for my wife.
Q When? A My father-in-law made the application, I don't know exactly when it was, I think probablt about '86, I couldn't say as to the date.
Q Before the Cherokee authorities? A Yes sir.
Q Did he file an applicati n before the Dawes Commission in 1896 also? A Him.
Q Yes sir? A I don't think he did, no sir.
Q Did you? A I did.
Q On account of your wife? A Yes sir.
Q Did you make applicatiam affidavit to that application? A No sir
Q Who did? A I don't know, don't remember now.

Q You applied for your wife as an Indian by blood did you not? A Yes sir.
Q Are you still an applicant? A No sir.
Q Is she? A No sir.
Q She was denied was she? A Yes sir.
Q Was there an appeal taken from that? A Application was filed if I remember, before the Dawes Commission, and they rejected the case, and then I appealed it to the District Court, and it was rejected there, and then I stopped.
Q Have ever you been arrested for any crime? A Yes sir.
Q What? A Charge of murder.
Q Anything else? A No sir.
Q Committed on the train? A Yes sir.
Q In a train robbery? A Yes sir, in a train robbery.
Q How long did you remain in jail? A Why I was in jail twice on that charge, the last time I remained there three years and a half, lacking five days.
Q Were you ever convicted of that offence? A Yes sir.
Q And judgment was set aside? A Appealed the case to the Supreme Court, and it was reversed and sent back, and I was acquitted on that charge.
Q That all the crime you were ever charged with? A Yes sir.
Q Haven't you been having some trouble with the Dawson family? A Well me personally I have had no trouble with any of them; there is one of my boys and one of W.A.Dawson's sons-in-law had some trouble.
Q You are not friendly with the Dawson family? A That son-in-law Mr. Wooley, and myself, don't speak, and I don't think his wife speaks to me either.
Q Well you are claiming some sort of lease on the Wooley farm, aren't you? A No sir, I don't claim any lease on the Wooley farm.

B. W. ALBERTY, being first duly sworn, and being examined, testified as follows:
BY MR. HUTCHINGS:
Q State your name? A B. W. Alberty.
Q What is your post-office? A Tahlequah.
Q Whatis your present official position in the Cherokee Nation? A Assistant Executive Secretary of the Cherokee Nation.
Q As such have you charge of the citizenship records and books etc. of the Nation? A Yes sir.
Q Have you made search recently for the original records in the various cases of the Dawson family beforethe citizenship courts in Council? A Yes sir.
Q Have you got what records you found with you?A I find what's supposed to be the original papers in the case, all that I could find.(Produces papers and hands to Nation's attorney.)
Q Where did you find these papers? A I found them in the desk in which papers of that character are filed away in the Executive Office at Tahlequah. (Applicants' attorneys examine papers produced by witness.)
BY MR. HUTCHINGS: The Nation here introduces in evidence an envelope marked No.108, the names on the back of it are Robert, Elbert, Jasper, John, Frances, Marion, Josephine, Joseph, Jane, Molly, Wilburn, James, Rial Dawson, versus the Cherokee Nation; the envelope and its contents.

BY MR. McKENNON: To the introduction of all of which the applicants object, because it is wholly incompetent and irrelevent.

The envelope above introduced by Cherokee Nation is indorsed as follows:
"No.108, Rob. Dawson, Elbert Dawson, Jasper Dawson, John Dawson, Francis Marion, Josephine Dawson, Joseph Dawson, Jane Dawson, Molly Dawson, Wilburn Dawson, James Dawson, Real Daw-

son, vs Cherokee Nation. Petition for Citizenship, Filed Sept. 24, 1881. Admitted Jan 11th, 1883, D.W.G.Duncan, Clerk." In Pencil: "Robt Dawson."

The said envelope contains a document, as follows:

"Office of Commission on Citizenship,
Cherokee Nation, Tahlequah, January 19th, 1882.

No.108 Robert Dawson, "et al."
vs.
Cherokee Nation.

Testimony for Claimants.

Witness:

Dr. Arthur Baker sworn testifies as follows. My name is Arthur Baker I reside at Berrivill, Arkansas, Carroll County, my age is 73 years, I am not a Cherokee, I lived in the Cherokee Nation about three years when I first came to Arkansas I have been acquainted with him since he became a citizen of Carroll County some thirty five years(line drawn through the last three words.) 35 years at my mothers house near Calhoun I became acquainted with the claimants Robt Dawsons grandmother on mother's side she was frequently at my mothers house; though she Anna Pruit lived in the Nation side. She claimed to be a half sister to Big Jee Vann, also claimed to be half Cherokee; the first time she brought the claimants mother to my mothers house she the claimants mother was about grown, when I was a little boy She called her daughter Polly Rogers said Capt. John Rogers who ran a boat up the river was the father of the child; I saw the girl frequently there at my mothers and there at Louis Rosses Store I saw her occasionally until I was 15 or 16 years old and I think then Old Capt John Rogers took her off to school. I saw her no more from the time Old Capt John Rogers took her off till I saw her here in Arkansas the wife of Old Samuel Dawson. I stayed all night there and she and I had to talk over our old matters, and I asked her when she became acquainted with Dawson and she said at the time she was going to school. And she said after she left school that Dawson followed her home to the Nation and they were there married. I have told that precisely in the words that she used.

Capt John Rogers claimed to be one fourth Cherokee, the claimant is the son of Polly Rogers and I know Polly Rogers to be the daughter of Anna Pruet, and I know the claimant to be the son of Polly Dawsen Capt Rogers then resided in the Cherokee Country about twelve mile below Calhoun on the Hiawassa River.

Anna Pruet resided in the Cherokee Nation as long as I stayed there the Dawsons when I got acquainted with them Arkansas were recognized where they were as Cherokees, Robt Dawsons children is Buck, John, Marion, and two girls; the children named in the petition I recognize as being the claimants.

Question by Solicitor:

Ques. 1 How many children did Polly Rogers have?
Ans. 1 Five, I think that's all.
Ques. 2 Did you say something about someone being married twice?
Ans. 2 The claimant was married twice.
Ques.3 Could Anna Pruet speak Cherokee?
Ans. 3 Yes she could speak it well.
Ques. 4 Did Polly Rogers speak Cherokee?
Ans. 4 She could when she was young.
Ques. 5 How far did you live from Anna Pruet?
Ans. 5 Just across the river about 3/4 of a mile.

Ques. 6 Was Calhoun in the Cherokee Nation?
Ans. 6 It was on both sides of the river, part in the Nation and part out in the State.
Ques. 7 Which Harnage was it went to Texas?
Ans. 7 George went first Wm. John went they were the sons of old man Harnage that lived up here near the line.
Ques. 8 Did the claimant go to Texas?
Ans. 8 No the claimant didn't go to Texas.
Ques. 9 What connection was Claimant and Polly Rogers?
Ans. 9 The claimant is the son of of Polly Rogers Marion here is the grandson of Polly Rogers.
Ques. 10 Where does claimant now live?
Ans. 10 He lives in Carroll County, Arkansas.
Ques. 11 Do you know what relation old Captain John Rogers was to Charlotte Rogers here in Ceoweeskowee
Ans. 11 They claimed kin but what kin I dont know there were two Capt. John Rogers' in the Nation I am speaking of the time when I first came to this 1830 Country about the year 1830
Ques. 12 Was Anna Pruet the maden name of Claimants grandmother
Ans. 12 Yes that was her maden name the Indians called her Sinee

his
(signed) Arthur. A. x Baker.
mark

Witnesshand paralized is the reason he signs by a mark thus "x". "

The above document is indorsed on back as follows:

"Certified copy of Affidavit, Arthur A. Baker in Dawson case, "Robt." Decided by the Tehee Court in 1883. A. Riley Dawsons Step daughter a white woman married a white man, named August Bulaska."

BY MR. HUTCHINGS: We further introduce envelope No.181, of E. Dawson for his grand-children, versus the Cherokee Nation, and its contents, to-wit: The Petition and affidavit of F.M. Dawson, and the testimony of Joseph Dawson.
(Hands papers referred to to applicants' attorneys.)

BY MR. McKENNON: To the introduction of all of which the applicants object, because it is wholly incompetent, and irrelevent.

The envelope above introduced is indorsed as follows:
"No.181. E. Dawson. vs The Cherokee Nation. For his grand children. Petition for Citizenship. Filed Sept. 14th,1883, D. W. C. Duncan, Clerk of Com. Decided Sep.15, to be Cherokees.

The contents of said above envelope are as follows:

"Office of Commission on Citizenship.
Tahlequah, Cherokee Nation, Sept 14,1883.
E. Dawson,
No.181. vs for his grand children,-
Lulu Dauthett,
Dallas Dauthett,

F. M. Dawson for Claimant introduced sworn and in open court testifies as follows:
My name is F. M. Dawson. Am a Cherokee by blood reside in the Cherokee Nation am 30 (40 written over it) years old.
I saw the Claimants, Lulu Dauthet and Dallas Dauthet in Vinita, and know them to be the grand children of my brother E. Dawson who is a recognized Cherokee by blood. L.M.Dawthet the father of the Claimants, Lulu, and Dallas is a white man

Dauthet's wife the mother of Lula & Dallas was a Cherokee, the daughter of my brother E. Dawson, She is now dead. The oldest of these applicants is about 9 years old. I have known them about 8 years. These children is now living with their father. One is girl and the other is a boy. I had been acquainted with her mother all her life. If she had been now living she would have been about 25 years , old - - She has been dead about 4 years as well as I can recollect, She was about 17 years old when she was married.his

(signed)F. M. x Dawson,
mark

Office of Commission on Citizenship,
Tahlequah, Cherokee Nation, Sept. 14,1883.
No.181 E. Dawson,
for his grand children
Lula Dauthett
Dallas Daughett

Joseph Dawson introduced for the Claimants, sworn in open Court testifies as follows:

Jos Dawson, am a Cherokee live in the Cherokee Nation, am 31 years old.

Lulu Dauthett and Dallas Dauthet, the Claimants are Cherokees. Tawnie Dawson was their mother. Fawnie Dawson was a Cherokee, that is what I was always told. Her father was E. Dawson. E. Dawson was my brother, Mrs. Dauthett is not living now; the last time I saw Lula, and Dallas Dauthett, they were in Texas. But I have heard since that they are in the Cherokee Nation. E. Dawson recognizes them as his grand children and I have known them ever since they were born.

By Solicitor:

Lula is about 10 years old. The Dallas is about 5 or 6 years old. I heard that their father is now at Vinita Cherokee Nation, E. Dawson is Elbert Dawson, The Applicants' mother has been dead about 3 or 4 years. She died at Hillsboro, Texas. I was not present when their mother and E. Dawson had eight children to the best ofmy recollection, or 9. Fawnie, Francis, Cartenas, Zanie, Bob, Smith, Worsh, Bert, Ella. All living but two, Fawnie and Smith. They are all living in Texas when I left there. I am a brother to F.M. Dawson, We are full brothers. My father has been admitted to Cherokee citizenship by this court. his

(signed) JosephxDawson,
mark

To the Commission on Citizenship,
Tahlequah, C.N. Sept. 12,1883.
E. Dawson for grandchildren,
Lula Douthitt,
Dallas Douthitt,
V.S.
Cherokee Nation.

Now comes E. Dawson petitioning for the Cherokee rights of his grand children Lula Douthitt, & Dallas Douthitt, by virtue of there Cherokee blood, which was derived from the Dawso family, who is acknowledge Cherokees by admission of your Hon. Court, at its last session in January,1883, in view of the facts ask your Hon for a spedic and favorable consideration of our claims.

(signed) E. Dawson for grand children,
By C. H. Tayler.

This last document is indorsed on back as follows:

"No. 181, Petition of Lula, Deuthitt & Dallas Deuthitt, for Citizenship Filed Sept 14,1883, D.W.C.Duncan, Clerk."

BY MR. HUTCHINGS: Now we desire to introduce the judgment in the case of S. R. Dawson, and others, of the Commission on Citizenship, found on page 20, of Record Book B, of the Citizenship cases in the Cherokee Nation, said book having been turned over to and now in the custody of the Commission; the judgment being dated April 26th,1889.

BY MR. McKENNON: To the introduction of which the applicants object,because it is wholly incompetent, immaterial and irrelevent.

Record above introduced is as follows:

"S. R. Dawson,

Office Commission on Citizenship,
Tahlequah, C.N. August 11th,1887.

Docket	No.	Names,	Age	Sex	Post Office,	Attorney
	1	S. R. Dawson,	66		Cateosa,	
	2	Parlee Dawson,	44	female		
307	3	America J. Dawson	35	"		
	4	Katharine J. Dawson,	33	"		
	5	J.G.Dawson,	31	male		Bell &
	6	Elias F. Dawson	29	"	Applicant for	Bryant.
	7	Toliver Dawson,	27	"	Cherokee Nation.	
	8	Emma Dawson	20	female		
	9	Fanny Dawson	18	"		
	10	John Riley Dawson	11	male	R.	
	11	Robt E. Dawson,	9	"		
	12	Claud Dawson	7		Ancester	
	12	Cleveland Dawson	3		John Rogers	

-- filed August 11th,1887. "

In red ink written along Age column is the following: "Rejected April 26, 1889."

"Now this day comes the above case for final hearing, Samuel R. Dawson, bases his application for readmission to citizenship in the Cherokee Nation upon the ground that he is the son of Samuel Dawson a white man, Polly Rogers the alleged daughter of Captain John Rogers and Chilsey Pruitt, said to be a half sister of Joseph Vann. Commonly known as Rich and who were of Cherokee blood. It is admitted that John Rogers and Chilsey Pruitt died before the rolls upon which their names would appear if living at the time and specified in the 7th section of the act of December 8th,1886, creating the Commission on citizenship, were made but in support of the application it is urged that certain members of the Dawson family and full brothers of the applicant were re-admitted to citizenship by the Commission on Citizenship commonly known as "The Tehee Court", and the "Spears Court", and are now residing as citizens in the Cherokee Nation. In the opinion of this Commission the sufficiency of the considerations which determined the decision of these Commissions of of the testimony now introduced to authorize the admission of the present applicant is not relivent to the issue now pending. The 7th section of the act of December 8th, 1886, before named provides, that "The Commission shall give A hearing to [illegible]

a hearing to any person applying for citizenship in the Cherokee Nation upon the grounds of Cherokee blood or descent, but such applicant must be a person, or the lineal descendant of a person whose name appears on the census rolls of Cherokees taken by the United States.' As are thereafter enumerated. Neither the names of the applicant nor thatof the person of whom the claims to be a lineal descendant appearing on either of said rolls the Commission adjudge and decree that Samuel R. Dawson and family are not entitled to re-admission to citizenship in the Cherokee Nation as Cherokees by blood. This opinion includes the casesof Andrew J. Dawson, James K. P. Dawson, Jounnah Barber nee Jounnah Dawson, and Jane Queen, nee Jane Dawson, and their families, as enumerated in their respective applications.

(signed) Will P. Ross,
Chairman.

This April 26th,1889.
(signed)D.L.Williams,
Cl'k Com'n."

(Signed) R. Bunch, Commissioner,
John E. Gunter, Com'nr.

//

BY MR. HUTCHINGS: The Nation now introduces the envelope in the case of James K. P. Dawson, and the contents, being the original testimony in the case of E. Dawson; also the judgment in said case, found on page 116, in Book C., containing the records of the Citizenship Commission of the Cherokee Nation, the date of said Judgement being April 26th, 1889; this book being also in the custody of this Commission.

BY MR. McKENNON: To the introductionof all of which the applicants object, because it is wholly incompetent, immaterial and irrelevent.

The envelope above introduced is indersed on back as follows:

"Name, James K. P. Dawson, APPLICANT FOR CHEROKEE CITIZENSHIP. Address, - - - Age, - - Years, - - Roll of 1835, Ancestor, Riley Dawson, Filed the 5 day of Oct. 1887, Docket 989, Book C Page 116, Testimony on Journal - - Page - - - Decision of Commission Rejected 26 day of April 1889.
Rejected."

The contents of said envelope are as follows:

"A.J.Dawson, et al., } Office Com. On Citizenship,
(vs) { Tahlequah, I. T. Sept. 27,th,1888.
Cherokee Nation. }

E. Dawson, who being duly sworn, upon his oath, deposes and says as follows, to wit:

I am a citizen of the Cherokee Nation and reside in Ceoweescoowee Dist. and am 53 years old. I am acquainted with the applicant, Andrew J. Dawson, he claims to be a relation of mine. I have known him personally about three (3) years. he said his father was Joe Dawson, I know the party, the applicant, from cercumstances, and have no doubt but that his he is a relation of mine.

Joe Dawson, the father of the applicant was my father's brother. Joe Dawson was considered to be a Cherokee, I think he died on the Hiwassee river in Tenn. I think he had four (4) children. I never saw any of them but Andrew J. Dawson, and Jim Dawson.

-Cross Ex.-

Joe Dawson has been dead about 35 years he lived westof the Mississippi river, I understand. My father had four brothers, I don't know how long Joe Dawson had been living in Tenn. before he died. All that I know of the Applicant, being the son of my uncle Joe Dawson, is ~~found~~ from what he himself has told me, - My grandfather Sam Dawson was a White man. The applicant could be of the Dawson name and not be related to me. My grandfather being a Dawson and a white man,

Attest

Connell Rogers,
Clk. Com. on Citizenship."

This document is indorsed on back as follows:
"Testimony of E. Dawson, in case A.J.Dawson."

The judgment above introduced, and found on page 116 of book C of the Dockets of Cherokee Citizenship Commission, is as follows:

"James K. P. Dawson,

OFFICE COMMISSION ON CITIZENSHIP,

Tahlequah, Ind. Ter?, Oct. 5,1887.

Docket	No.	Names	Age	Sex	Post Office	Attorney
	1	James K. P. Dawson,-		male		
	2	William A. Dawson,				
989	3	Richard A. Dawson,				C.H.Taylor.

Applicant for
Cherokee Citizenship,

Census Rolls 1835

vs.

Ancestor,
Riley Dawson,

Cherokee Nation. "

In red ink along age column are the words: "Rejected April 26, 1889."

\- - - - - -

"Adverse to Claimant.

See decission in this case in that of S. R. Dawson in Book (B) Page 20.

This April 26th,1889.

D.S.Williams,
Cl'k Com.

Will P: Ross,
Chairman.
J.E.Gunter, Com."

BY MR. HUTCHINGS:

The Nation desires to introduce the original envelope and its contents in the case 196, of Rebecca Dawson, being the application and judgment as ~~[illegible]~~ in the case, also the judgment as copied into the record, Book C, on page 144, the date of said judgment being August 28th,1889.

BY MR. McKENNON: To all of which applicants object, because

it is wholly incompetent, immaterial and irrelevent.

The envelope just introduced is indorsed on the back as follows:

"196,1,Name Rebecca Dawson, APPLICANT FOR CHEROKEE CITIZENSHIP. Address Emmet, I. T., Age 48, Years, 1835, to 1852, Roll of 18-- Ancestor Maton, Filed the 5 day of Oct 1887, Docket 1017 Book C Page 144, Testimony on Journal- Page - - Decision of Commission, Rejected 28 day of August 1889. Submitted by Mr, Rasmus, Aug. 28,1889." R"

The contents of said envelope are as follows:

"APPLICATION FOR CITIZENSHIP.

To the Honorable Commission on Citizenship:
Gentlemen:- The undersigned, your petitioner, this day makes this her application for re-admission to citizenship in the Cherokee Nation in accordance with the Constitution, and with an Act of the National Council approved December 8th,1886, creating your Commission, And respectfully makes the following statement of the grounds of this her Application, to-wit:

That Rebecca Dawson is the Grand Daughter of one Moton, who the undersigned firmly believes was duly enrolled upon the Census Rolls of Cherokees by blood, citizens of the Cherokee Nation, taken and made in the years 1835,-48 - 51 - 52.

The undersigned hereby presents the above facts as the lawful grounds for this Application for Cherokee citizenship by blood, and respectfully awaits the time when Application shallbe truly heard and tried in accordance with the aforesaid law.

Age, 48 years; Postoffice; Emmett, Chic Na. family with their relationship attached is as follows:

No Name Sex Age Relationship.

In witness of which application I hereunto set my hand on this the 4- day of October 1887.

(signed) Rebecca Dawson,

Boudinot & Rasmus,
Atterneys."

- - - - - - - -

" COMMISSION ON CITIZENSHIP.
Cherokee Nation, Ind. Ter.
Tahlequah, August 28th,1889.

Rebecca Dawson)
V.S.
Cherokee Nation.) The above case was called and submitted by Rasmus without Evidence the Commission decide that Rebecca Dawson, age 48 yrs is not a Cherokee by Blood and are not entitledto citizenship in the Cherokee Nation Post Office Emmet Texas - - I. T.

(signed)WILL P. ROSS,
Chairman,
J.E.Gunter, Com."

- - - - - -

The judgment found in Book C, Records of Commission on Citizenship, Cherokee Nation, page 144, is as follows:

"Rebecca Dawson,

OFFICE COMMISSION ON CITIZENSHIP.

Tahlequah, Ind. Ter., Oct. 5th, 1887.

Docket No.	Names	Age	Sex.	Post Office	Attorney.
1	Rebecca Dawson	48	female	Bennett, I. T.	

1017

Boudinot & R.
Applicant for
Cherokee Citizenship.

Census Rolls, 1835,
to 1852.

Ancestor,
Moten,

vs.
Cherokee Nation.

Office Commissionon Citizenship,
Cherokee Nation, Ind. Ter.,
Tahlequah, Aug. 28th, 1889.

The above case was called and submitted by Attorney Rasmus without evidence. The Commission decide that Rebecca Dawson, aged 48 years is not a Cherokee by blood and not entitled to citizenship in the Cherokee Nation.

Attest:
E.C.Ross,
Clerk Commission.

Will P. Ross,
Chairman.
J.E.Gunter, Com."

BY MR. HUTCHINGS: The Nation next introduces the original envelope and contents in the case, 198, of Mary Dawson, the contents being the application for citizenship, and the judgment as written up by the Court; also the judgment of the Court as copied in Book C, page 145,- said judgment being rendered August 28th, 1889.

BY MR. McKENNON: To all of which applicants object, because the same is immaterial, ~~this~~ irrelevent and incompetent.

The envelope just introduced is indorsed on back as follows:

"198, 2, Name, Mary Dawson, APPLICANT FOR CHEROKEE CITIZENSHIP. Address, Bowie, Texas, Age 54, Years, 1835 to 1852 Roll of 18- Ancestor, Moton, Filed the -- day of 9- 18-- Docket 1018, Book C Page 145, Testimony on Journal-- Page-- Decision of Commission Rejected 28th day of August 1889, Submitted by Mr. Rasmus, Aug. 28, 1889."

The contents of said envelope are as follows:

"APPLICATION FOR CITIZENSHIP.

To the Honorable Commission on Citizenship:
Gentlemen:- The undersigned, your petitioner, this day makes this her application for re-admission to citizenship in the Cherokee Nation in accordance with the Constitution, and with an Act of the National Council, approved December 8th, 1886, creating your Commission. And respectfully makes the following statement of the grounds of this her Application, to-wit:
That Mary Dawson is the Grand Daughter of one Moton who the undersigned firmly believes was duly enrolled upon the Census Rolls of Cherokees by blood, citizens of the Cherokee Nation, taken and made in the years 1835,-48- 51 - 52.

The undersigned hereby presents the above facts as the lawful grounds for this her Application for Cherokee Citizenship by blood, and respectfully awaits the time when her Application shall be truly heard and tried in accordance with the aforesaid law.
Age, 54, years; Postoffice Bowie, Texas, family with their relationship attached is as follows:

No.	Name	Sex	Age	Relationship.
1	Walter Dawson	M	18	Son.

In witness of whichapplication I hereunto set my hand on this the 4 dayof October 1887.

Mary Dawson,

Boudinet & Rasmus,
Attorneys."

- - - -

COMMISSIONON CITIZENSHIP,
Cherokee Nation, Ind. Ter.,
Tahlequah, August 26th,1889.

Mary Dawson,
vs.
The Cherokee Nation) Application for Cherokee Citizenship.

The above named case having been submitted by W. F. Rasmus, Attorney for claimant, without evidence, the Commission decide that Mary Dawson age 54 yrs, and her son Walter Dawson, age 18 yrs, are not of Cherokee blood, P.O. Bowie, Texas.

Will P. Ross,
Chairman,
J.E.Gunter, Com."

- - -

Said envelope also contains the following:

APPLICATION FOR CITIZENSHIP
TO THE HONORABLE COMMISSION ON CITIZENSHIP: Gentlemen:- The undersigned, your petitioner, this day makes this his Application for re-admission to citizenship in the Cherokee Nation, accordance with the Constitution and with an Act of the National Council, Approved December 8th,1886, creating your Commission. And, respectfully makes the following statement of the grounds of this his application, to-wit: That James K.P. Dawson is the son of one Riley Dawson who the undersigned firmly believes was duly enrolled upon the - - - Rolls of

Cherokees by blood, citizens of the Cherokee Nation, taken and made in the year 1835. The undersigned hereby presents the above facts as the lawful grounds for this his application for Cherokee Citizenship by blood, and respectfully awaits the time when his application shall be truly heard and tried in accordance with the aforesaid law.
Age - - years; Post-office - - -; family withtheir relationship attached is as follows:

Names,	Sex,	Age,	Relationship.
William A. Dawson	Male		Son
Richard A. Dawson,	"		"

In witness of which application I hereunto set my hand on this the 4th day of Oct 1887.
(signed) James M.F.Dawson,
C.H.Taylor, Attorney."

- - -

The judgment as recorded in Book C, page 145, of the Records of the Cherokee Commission on Citizenship, is as follows:

"Mary Dawson,

OFFICE OF COMMISSIONON CITIZENSHIP.

Tahlequah, Ind. Ter., Oct. 5th, 1887.

Docket No,	Names	Age Sex	Post Office	Attorney
1	Mary Dawson,	54 female	Bowie, Texas.	
2	Walter Dawson,	18 male,		

Boudinot & M.
Applicant for
Cherokee Citizenship.

Census Rolls 1835 to 1852

vs.
Cherokee Nation.

Ancestor
- - - - -

- - - -

Office Commission on Citizenship,
Cherokee Nation, Ind. Ter.,
Tahlequah, Aug 28th, 1889.

The above case having been submitted by W. F. Rasmus, attorney for claimant, without evidence, the Commission decide that Mary Dawson aged 54 years, and her son Walter Dawson, aged 18 years are not of Cherokee blood. Post office Bowie Texas.
Attest:
E.C.Ross,
Clerk Commission.

Will F. Ross,
Chairman.
J.E.Gunter, Com."

- - -

BY MR. HUTCHINGS: The nation further introduced the original envelope in the case of Andrew J. Dawson, which said envelope contains his original application; also the judgment in that case recorded on page 38, of Book A, of the Records of the Citizenship Commission of the Cherokee Nation, which said records are now in the custody of the Commission; the judgment is dated April 26th,1889.

BY MR. McKENNON: To all of which the applicants object, because the same is immaterial, irrelevent and incompetent.

The envelope just introduced above, is indorsed as follows:

"Name, Andrew J. Dawson, APPLICANT FOR CHEROKEE CITIZENSHIP. Address, Nevada, Mo. Age 44 years, - - 1835, Roll of 1835, Ancestor, - - Filed the 11 day of February 1887, Docket 37 Book A, Page 38 Testimony on Journal- - Page, Decision of Commission, Rejected, 26 day of April,1889. Rejected."

The contents of the said envelope are as follows:

"To the Commissionon Citizenship.

Tahlequah, I. T.,
January 27,1887.

	age		
Andrew J. Dawson,	44	years	Male
E. E. Dawson,	16	"	"
Olive M. Dawson,	14	"	female
William H. Dawson,	11	"	male
Jessy K. Dawson,	9	"	"
Glennie D. Dawson,	8		female.

V.S.
Cherokee Nation.

Know comes Andrew J. Dawson, and five children claiming his right to Cherokee Citizenship by virtue of his Cherokee bleed, he being a cosin to E. Dawson and others of the same name admitted to citizenship by the Thom Tehee Court on Citizenship which is a matter of record, we submit that as proof of the Justness of his Claim, his ancestors will be found on the roll of 1835.

Respectfully,

Post-office, (signed) A.J.Dawson &
Nevada, Mo. five children,
by C.H.Tayler,
Attorney."

- - - -

The judgment just introduced and found on page 38 of Book A, Records of Cherokee Commission on Citizenship, is as follows:

"Andrew J. Dawson,

Office Commissionon Citizenship,
Tahlequah,C.N., Feby 11,1887.

Docket No	Family	Name	Age	Sex	
	1	Andrew J. Dawson,	44	male	Nevada, Mo.
	2	E. B. Dawson,	16	male	
37	3	Olive M. Dawson,	14	female	
	4	William H. Dawson,	11	male,	Applicants for Cherokee Citizenship,
	5	Jessie K. Dawson,	9	male	C.M.Taylor.
	6	Glennie D. Dawson,	8	female.	

Rolls 1835,

Rejected April 26,1889,(red ink.)
V.S.

Ancestors,

Cherokee Nation.

Filed Feby 11,1887 .

Adverse.

See Decission in this case in that of L. R. Dawson,
Book P.20.
rendered April 26- 1889.
D.S.Williams,
Clk Com."

\- - -

BY MR. HUTCHINGS: We next desire to introduce the records in the case of this same Andrew J. Dawson, before the Commission to the Five Civilized Tribes, Filed September 7th, 1896, and the judgment of the Commission thereon. Number of said case being 4,694. And the judgment of said case on page 294, Book B., Dawes Commission Record, 1896. Judgment was rendered November 17th,1896, denying the application.

BY MR. McKENNON: To all of which applicants object, because the same is immaterial, irrelevent and incompetent.

The records just introduced, being those filed before Dawes Commission, 1896, in Andrew J. Dawson, et al., are as follows:

"Registry Receipt,
Post Office at Vinita, Sep.7 1896, Cherokee Nation,Ind.Ter.
Registered Letter, No. 409, Rec'd, of A.J.Dawson, addressed to S.H.Mayes, Tahlequah, I. T., (signed)D.A.Frayzer, L.-P.M.

\- - - -

"Commission to the Five Civilized Tribes,
Vinita, Ind. Ter., Sept. 7,1896.
See that you swear to your Petition.
Evidence of service of copies of the Chief or Governor may be secured as follows: If convenient get his receipt to file with your papers. If you cannot do this, register to him,

and have some interested person to make affidavit in form about as follows:

I, S.M.Davidson, do solemnly swear that on the 7th day of September, 1896, I saw a package registered at the postoffice at Vinita,, Indian Territory, addressed to Hon. S.H.Mayes, Chief of the Cherokee Nation, Tahlequah, Ind. Ter., that registry receipt, No. 409, received from postmaster, hereto attached, is a receipt for said package, which contained true copies of the application of Andrew J. Dawson, and of the affidavits of E. Dawson and F. M. Dawson in support of same.

(signed)S.M.Davison.

Subscribed and sworn to before me, on this 7th day of September,1896.

(seal) (signed)W.H.Kernegay,
NotaryPublic,First Judicial Division,
of the Indian Territory.

Attach receipt to this ~~certificate~~ affidavit and send with papers to the Commission at Vinita, Indian Territory. This takes the place of the former instructions, as we understand that packages are not promptly receipted for by the Chiefs and Governors.

~~xxxx~~ _____
For the Commission."

- - -

APPLICATION FOR ENROLLMENT.

To the Honorable Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Cabaniss and Alexander B. Montgomery, United States Commissioners, authorized by an act of Congress of June 4th,1896, to hear and determine claims for citizenship in the Cherokee Nation:

Gentlemen:-

The undersigned, your petitioner, Andrew J. Dawson. ~~William H. T. Dawson Jesse K. D.~~ (Line in ink drawn through these names) forand on behalf of Minnie E.E.Dawson, Olive Maud Dawson, William H.T.Dawson, Jesse K. Dawson, Glen Dale Dawson, James K.P.Dawson, William A. Dawson, Maggie E. Dawson, Richard A. Dawson and Mary E. Dawson and heirs, this day make their application to you for the purpose of being placed on the revised roll of Cherokee Indians and of those entitled to share in the distribution of the funds and allotments of lands in the Cherokee Nation by virtue of their Cherokee blood, and Petitioners state thatthey are Cherokee Indians by blood, deriving the same from Captain John Rogers, Polly Rogers, Daughter of Captain John Rogers, married Samuel Dawson, whose name will be found on the authenticated rolls of the Cherokees by blood, taken in the years 1817, 1818, 1819 and 1835 & 1838 the same to be submitted to your Honorable Commission for a full and complete investigation, and if found correct as stated, to be granted all the rights, privileges and immunities of other Cherokee citizens, and petitioner herewith files his proof in support of said claim, and respectfully awaits the time when his application shall be heard and tried.

Respectfully submitted,
Andrew J. Dawson,

Enrollment of family, withrelationship attached, as follows.

Names.	Ages.	Relationship.
Minnie E.E.Dawson,	25	Daughter,
Olive Maud Dawson,	23	daughter

William H. T. Dawson,	20	Son
Jesse R. Dawson,	18	son
Glen Dale Dawson,	16	~~son~~ daughter
James K.P.Dawson,	47	brother
William A. Dawson,	18	Nephew
Maggie E. Dawson,	8	Neice
Richard A. Dawson,	17	Nephew
Mary E. Dawson,	5	Neice.

IN WITNESS WHEREOF, I hereunto set my hand this Third day September 1896.

(signed) Andrew J. Dawson."

Jurat on back as follows:

"United States of America,
Indian Territory,
Northern District.

Andrew J. Dawson, of lawful age, being duly sworn states that he knows the facts set forth in the above and foregoing application and that the same are true as he verily believes.

(signed) Andrew J. Dawson,

Subscribed and sworn to before me on this the 3rd day of September 1896.

(signed) J.A.Tillotson,
(Seal) Notary Public.
My Commission expires June 8" 1899.

- - - - - -

Indian Territory,)
) SS.
Northern Judicial District)

Andrew J. Dawson, of lawful age being by me first duly sworn on oath says that he is 52 years old that his postoffice address is Afton,I.T. Affiant further says that he is a citizen of the Cherokee Nation and a Cherokee Indian by blood deriving his Indian blood from Polly Rogers daughter of Captain John Rogers, that Polly Rogers, a daughter of Captain John Rogers married Samuel Dawson near Calhoun Tenn. on the Hiawathia river while emigrating to the west.

Affiant further says that Samuel Dawson and Polly Rogers are his Grandfather and Grandmother and that Captain John Rogers was recognized by the National Council of the Cherokee Nation as a Cherokee citizen in the laws of the Cherokee Nation of 1852 as follows. An act of the council of 1842 page 68, an act of Nov. 17" 1843, page 96. also an act of Nov. 16 1849 page 204.

Affiant further says that he is blood relation of E. Dawson, F.M.Dawson, Joseph Dawson, and John Dawson who were admitted to citizenship by the Cherokee Nation and whose names appear on the authenticated rolls of 1893.

(signed)Andrew J. Dawson.

Subscribed and sworn to before me this 3 " day of September A.D.1896.

(Seal) (signed)J.A.Tillotson,
My Commission expires June 8" 1899. " Notary Public.

"Indian Territory, }
Judicial Dist. } S.S.

F.M.Dawson, of lawful age being by me First duly sworn on oath says that he is 54 years old; that his Post office address is Afton Indian Territory, Affiant Further says I have known Andrew J. Dawson for the Past 10 years and have known him and recognized him as a Cherokee indian and a Cousin of mine, he Claims to of originated From the Family of Joe Dawson and he was a Brother of Robert Dawson my Father, and he being an ofspring of Sam Dawson, who married Polly Rogers, a Daughter of Capt John Rogers, who was a Recognized Cherokee indian.

his
(signed) F.M. x Dawson
mark

Subscribed and sworn to before me this the 5th day of Sept. 1896." (signed) Frank L. Sharp
Notary Public. (Seal)"

\- - -

"Ind Ter
Northern Dist
This affidavit Made this 4th day of Sept 1896 by E. Dawson of this Dist in the Cherokee Nation I have known A.J.Dawson 10 years and have known him and recognized him as a Cherokee Ind and a cousin of mine, he claims to Originate from the family of Joe Dawson and he was a brother of Robert Dawson and being an ofspring of Sam Dawson who was (line in ink drawn through word was) married Pollie Rogers a Daughter of Capt John Rogers who was a Recognized Cherokee Indian.
(signed)E.Dawson.
Subscribed and sworn to before me this 4th day of Sept 1896.
(signed) J. Barricklaw,
Notary Public,
My Commission expires June 8,1899.
(seal) "

Indorsed on back: "No.1509, A.J.Dawson vs Cherokee Nation Filed Sept 7-1896 A.S.McKennon, Com'r."

\- - -

Before the Honorable Henry L. Dawes, Frank C. Armstrong, A.S. McKennon, T.B.Cabaniss, and A.B.Montgomery, Commissioners.
In the matter of the application of
Andrew J. Dawson, Nation's No.....
Commission's No.....
for citizenship in the Cherokee Nation.

Your respondent, S.H.Mayes, Principal Chief of the Cherokee Nation, comes now and demurs the said application, and for the grounds thereof says:

1st. That this Commission has not jurisdiction over the parties or subject matter of this controversy, and no legal right, therefore, to hear and determine the same.

2nd. That the application does not state facts sufficient if true, to show that the applicant . . . entitled to citizenship.

Respondent not waiving his aforesaid demurrer, but insisting upon the same for answer to said application, says that John Rogers through whom the petitioner claim to derive . . right to citizenship in the Cherokee Nation, is not now, and has not been a citizen of the Cherokee Nation, since the removal of said Nation, west to the Indian Territory, as at present located and defined; that his name does not appear on any of the authenticated rolls of said Nation; that neither he nor any of his ancestors now reside, or ever have resided in the Cherokee Nation and Indian Territory, as citizens thereof.

See Case Nation's No.1573.

Having fully answered, your respondent asks to be hence dismissed.

S.H.Mayes, Principal Chief Cherokee Nation

B. Hutchings, Hastings & Boudinot, Attorneys.

John L. Adair, Executive Secretary, Cherokee Nation, having been first duly sworn, states that the matters contained in the foregoing answer are true, to the best of his knowledge and belief.

(signed) John L. Adair,

Subscribed and sworn to before me this the 5 day of Oct 1896.

(signed) D.J.Ball,

Notary Public /

(seal)"

Indorsed as follows: "Nation's No. 4679, Commission's No. 4694, In re Application of Andrew J. Dawson, DEMURRER AND ANSWER. Filed Oct 21 H.M.Jaseway, Sec."

The foregoing documents, composing the 1896 papers as above set forth, are enclosed in envelope indorsed:

"No.4694, Petition of Andrew J. Dawson, and Heirs, Cherokee, 9-7-96. Rejected."

Which envelope is enclosed in jacket, marked "No.4694."

\- - -

BY MR. HUTCHINGS: Now we desire to introduce the records in the case of Joanna Barber, et als., No. 1864, the United States Court number being 90, and the Nation desires to call especial attention to the testimony of W.C.Rogers and Sarah Carter as set forth in this case.

BY MR. McKENNON: To all of which applicants object, because they are wholly irrelevent, immaterial and incompetent.

Records in said case are as follows:

APPLICATION FOR ENROLLMENT.

To The Honorable Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Cabaniss and Alexander B. Montgomery, United States Commissioners authorized by an act of Congress of June 4,1896, to hear and determine Claims for Citizenship in the Cherokee Nation:

Gentlemen: The undersigned, your petitioner, Joanah Barber, for and on behalf of himself and heirs, this day makes this their application to you for the purpose of being placed on the revised roll of Cherokee Indians and of those entitled to share in the distribution of funds and allotments of land in Cherokee Nation, by virtue of their Cherokee blood, and I herewith submit the affidavits of E. Dawson S.R.Dawson, W.A.Dawson & F.M.Dawson in support og maid claim, and respectfully xx await the time when our application shall be heard and tried.

Respectfully submitted,
(signed) Joanah Barber.

Elrollment of family, with relationship attached, as follows:

Names	Age	Relationship
Joanah Barber	60	Daughter of Elizabethor Betsy
Isaac J. " Husbd	65	Petty,nee Dawson, who was a
Onis E. "	26	daughter of Polly Dawson, nee
Wm. R. "	24	Rogers who was a daughter of
James E. "	18	Capt Jno Rogers and Ailey Rogers
Johny "	6	nee Vann a Cherokee Indian by
Joel A. Barber	39	blood as is shown by proof herewith filed.

In witness of which I hereunto set my hand on this 6 day of August 1896.

(signed)Joanah Barber."

Indorsed as follows:"Pd 2.50 No.... Petition of Joanah Barber for and on behalf of herself and heirs."

- - -

TO THE HONORABLE HENRY L. DAWES AND OTHERS COMPOSING THE COMMISSION TO THE FIVE CIVILIZED TRIBES:

Your petitioner, Joanah Barber, would state and show from the proof submitted to the Commission that he is a Cherokee by descent and by blood having been born in Carroll County, State of Ark. on 5 day of Dec 1835. My fathers name was John Petty. My mothers name was Elizabeth Petty, nee Dawson. That I now reside in Cherokee Nation, and have resided there for 10 years. And she avers these facts can be established by proof to the satisfaction of the Commission under such rules and regulations as it may prescribe. And she further avers that these facts being proved she is entitled to be adjudged under the laws of such Nation and the laws of the Congress of the United States and the treaties of such Nation with the United States, a citizen of such Nation, with all the rights privileges and protection of Citizenship in such Nation. Wherefore she herewith respectfully submit to the consideration of the Honorable Commission such proof and on the hearing she be adjudged entitled to such citizenship and her name be placed upon the proper roll as a citizen of such Nation.

(signature Joanah Barber.

INDIAN TERRITORY, }
{SS
FIRST JUDICIAL DIVIS}

Now on this 6 day of Aug 1896 personally appeared before me W.J.Watts Emma a Notary Public in and for the said Territory, Joanah Barber, who being duly sworn upon his oath stated that the facts set forth in the foregoing petition are correct and true. Subscribed and sworn to before me this 6 day of August 1896.

(signed)W.J.Watts,
Notary Public.

(seal)"

- - -

"(COPY)

In the matter of the claim of Joanah Barber nee Joanah Petty to Cherokee Indian Citizenship in the Cherokee Nation, Indian Territory.

Affidavit of S. R. Dawson.

Delaware District, }
Cherokee Nation, }
First Judicial Division, }
U.S.Court, Indian Territory. { SS
}
}

S.R.Dawson, to me well known to be reliable and respectable, after being duly sworn according to law States on oath, thathe is a bona-fide citizen of the Cherokee Nation by blood- that he is a resident in Said Nation- that his post office address is Afton, I. T.- that he is fifty-one years of age- that he is well acquainted with the claimant Joanah Babber and has as long as he has known any person- that she is a person of Cherokee Indian descent- that her maiden name was Joanah Petty- that she was the Daughter of one Elizabeth Petty, a person of Cherokee Indian descent- that Elizabeth Petty's Maiden Name was Elizabeth Dawson- that said Elizabeth Dawson was the Daughter of Polly Rogers, a person of Cherokee Indian descent, who intermarried with Samuel Dawson, a white man- that the said Polly Rogers was the daughter of Captain John Rogers and Ailsey Vann both well known Cherokee Indians.

Affiant is not directly nor indirectly interested in the result of this application.

(Impress of National Seal) (signed)S.R.Dawson.

Subscribed & Sworn to before Jany 6 1892.

(signed) W.B.Hubbard,
Notary Public."

"United States of America,
Indian Territory, (ss
First Judicial Division.

I, William F. Rasmus, a Notary Public within and for the Judicial Division aforenamed, do hereby certify that the next above in the within one page of an afidavit is a true and literal copy of the original as presented to me at Tahlequah, Ind. Terry, this the third day of July A.D.1893.

(signed)William F. Rasmus,
Notary Public, First Judicial Division, Indian Territory.

(Seal) My Commission expires Feby 3, 1897."

(A copy)

In the matter of the Claim of Joanah Barber (Nee Joanah Petty) to Cherokee Indian Citizenship in the Cherokee Nation, Ind. Ter.

Affidavit of E. Dawson,

Cooweescoowee District,)
Cherokee Nation)
First Judicial Division (ss
U.S.Court, Ind. Ter.)
)

E. Dawson, to me well known to be reliable and responsible after being duly sworn according to law states on oath that he is a Bonafied Citizen of the Cherokee Nation by blood- that he is a resident in said Nation that his Post office address is Talala Ind. Ter.- that he is 58 years of age- that he is well acquainted with the claimant Joanah Barber and has been as long as he has known any person- that she is a person of Cherokee Indian descent that her maiden name was Joanah Petty- that she was the Daughter of one Elizabeth Petty, a person of Cherokee Indian descent- that Elizabeth Petty's maiden name was Elizabeth Dawson- thatsaid Elizabeth Dawson was the Daughter of Polly Rogers a person of Cherokee Indian descent, who intermarried with Samuel Dawson, a white man, that the said Polly Rogers was the Daughter of Captain John Rogers a well known Cherokee Indian.

Affiant is not directly nor indirectly interested in the result of this application.

(signed)E. Dawson.

Subscribed to and sworn to me this the 24th day of Febry 1893

(signed) M.E.Williams,
Notary Public

(Impress of
National Seal
here.)
Com. Exps. Sept. 26/96.

United States of America,
Indian Territory. SS.
First Judicial Division.

I, William F. Rasmus, a Notary Public within and for first Judicial Division, Indian Territory, do hereby certify that the next above and the within one page of an affidavit is a true and literal copy of the original as presented to me at Tahlequah, Ind. Ter. this the third day of July, A.D.1893.

(signed) Wm. F. Rasmus,

(Seal) Notary Public, first judicial Division, Indian Territory, My Commission Expires Febry 3,1897.)

\- - - -

"United States of America,
Western District of Arkansas. SS.

In the case of Joanah Barber claimant for citizenship in the Cherokee Nation, Indian Territory, as a Cherokee Indian by blood, before Cherokee Indian authority at Tahlequah, Cherokee Nation, Indian Territory.

Personally came thisday before me William F. Rasmus, a commissioner U.S.Court within and for the District aforenamed duly authorized to administer oaths W.A.Dawson to me personally well known to be reputable and entitled to credit, and who being by me first duly sworn according to law, depeses and says: My name is W.A.Dawson, my age is 52; years; my post-office address

Tulsa, Ind. Terry. I am a Farmer by occupation, I am a citizen of the Cherokee Nation, I. T. by virtue of Cherokee Indian blood.

And affiant declares in relation to the above named case as follows, to-wit: That he is personally well acquainted with the claimant, Joanah Barber- whose mother's name was Elizabeth (commonly called "Betty") Petty, Dec'd nee Elizabeth Dawson, - a Cherokee Indian by blood, and who was the sister of his father; James Dawson, Dec'd, a recognized and acknowledged Cherokee Indian by blood- she was also a Sister of Robert Dawson Dec'd a recognized and acknowledged Cherokee Indian by blood-~~xxxxxx~~ said Robert Dawson ~~xxxx~~ ax having been a full brother to said James Dawson- that therefore the said claimant, Joanah Barber is his (affiant's) first Cousin by Cherokee Indian blood and that he so recognized and acknowledges her.

(signed)W.A.Dawson.

Subscribed and sworn to before me at Tahlequah, Ind. Terry this third day of December A.D.1894.

(signed)Wm. F. Rasmus,

(seal) United States Commissioner."

- - -

UNITED STATE OF AMERICA.)
Western District of Arkansas.)ss

In the case of Joanah Barber claimant for citizenship in the Cherokee Nation, Indian Territory, as a Cherokee Indian by blood, before Cherokee Indian authority at Tahlequah, Cherokee Nation, Indian Territory.

Personally came this day before me William F. Rasmus, a Commissioner of the U. S. Dist. Court within and for the district aforenamed duly authorized to administer oaths Francis M. Dawson, to me made personally well known to be reputable and entitled to - - and who - - duly sworn according to law deposes and says: My name is Francis M. Dawson my age is about 57 years; my post-office address is Afton, Ind. Terry, I am a farmer by occupation, I am a citizen of the Cherokee Nation, by virtue of Cherokee Indian blood.

And affiant declares in relation to the above named case as follows, to-wit: I am personally well acquainted with the claimant Joahah Barber, whose mother's name was Elizabeth (commonly called "Betty") Petty, nee Elizabeth Dawson, a Cherokee Indian by blood, said Elizabeth Petty was a full sister of my father Robert Dawson Decd, a Cherokee Indian by blood- and I acknowledge the relationship by Cherokee Indian blood of said Joanah Barber to me as first cousin- and I know that the said Joanah Barber therefore is of Cherokee Indian blood.

(signed) F.M.Dawson,

Subscribed and sworn to before at Tahlequah, Ind. Terry- this 17th day of November A.D.1893.

(signed)Wm. F. Rasmus,

(seal) United States Commissioner.

Indorsed on back as follows: "No 1 Filed Feb 24 1897, Jas. A. Winston, Clerk."

- - -

"Page 28, Docket "B"

Joannah Barber.

Office of Commission on Citizenship,

Tahlequah, C.N. August, 1887.

Docket.	No.	Names.	Age.	Sex.	Post Office.	Atty.
	1	Joannah Barber	51	female	Vinita, I.T.	
	2	Ailey J. Barber	34	Female		
	3	Irena Barber	24	Female		
	4	Emma Barber	22	Female		
	5	Atta Barber	20	Female		
	6	Mary Barber	13	Female	Applicant for Cherokee	
	7	Onice Barber	17	Female	Citizenship	
	8	Joel Barber	31	Male	Rolls 1835	
	9	Calaway Barber	27	Male		
	10	Teliver Barber	26	Male	Ancestor	
	11	Riley Barber	15	Male		
	12	Edgar Barber	9	Male		
		V.S.			John Rogers &	
		Filed Aug.12,1887.			Alcy Pruett	

See decision this case in that of L. R. Dawson, adverse to claimant in this book Page 20.

This April 26th,1889.

D.S.Williams, Clerk Com.

Will.P.Ross,Chairman, J.E.Gunter, Com."

- - - - -

"S. R. Dawson.

Office Commission on Citizenship,

Tahlequah, C.N.Aug. 11th,1887.

Docket.	No.	Names.	Age.	Sex.	Post Office	Atty.
	1	S. R. Dawson,	66		Catoosa, I.T.	
	2	Parlee Dawson	44	Female		
	3	America J. Dawson	18	Female		

4	Katharine J. Dawson	35 Female	
5	J.C.Dawson	31,Male	
6	Elias F. Dawson	29 Male	
7	Toliver Dawson,	27 male	Applicant for
8	Emma Dawson	20 Female	Cherokee
9	Fanny Dawson	18 Female	Nation
10	John Riley Dawson	11 Male	
11	Robt. E. Dawson	9 Male	R
12	Clara Dawson	7 Female	
13	Cleveland Dawson	3	Ancestor

Filed Aug.11,1887 John Rogers

Rejected April 26,1889.

Now this day comes the above case for final hearing, Samuel R. Dawson bases his application for re-admission to citizenship in the Cherokee Nation upon the ground that he is the son of Samuel Dawson a white man, Polly Rogers, the alleged daughter of Capt. John Rogers, and Chilsey Pruett said to be half sister of Joseph Vann commonly known as rich and who were of Cherokee blood. It is admitted that John Rogers and Chilsey Pruett died before the rolls upon which their names would appear if living at the time, and specified in the 7th Section of the Act of December 8th,1886, creating the Commission on Citizenship were made, but in support of the application it is urged that certain members of the Dawson family and full brothers of the applicant were re-admitted to citizenship by the Commission on Citizenship commonly known as the "Tehee Court" and "Spears Court" and arenow residing as citizens in the Cherokee Nation. In the opinion of this Commission the sufficiency of the considerations which determined the decisions of those Commissions or the testimony now introduced to authorize the admission of the present applicant is not relevant is the issue now pending. The 7th Section of the

Act of December 8th,1886, before named provides that the Commission hearing to any person applying for citizenship in the Cherokee Nation upon the grounds of Cherokee blood or descent, but such applicant must be a person, or the lineal descendant of a person whose name appears on the Census Rolls of Cherokees taken by the United States, as are thereafter enumerated, neither the names of the applicant nor that of the person of whom he claims to be a lineal descendant appearing on either of said rolls, the Commission adjudge and decree that Samuel R. Dawson and family are not entitled to re-admission to citizenship in the Cherokee Nation as Cherokees by blood. This opinion includes the cases of Andrew J. Dawson, James K.P.Dawson, Joannah Barber, nee Joannah Dawson, and Jane Queen, nee Jane Dawson and their families as enumerated in their respective applications.

Will. P. Ross, Chairman,
R. Bunch, Commissioner,
This April 26th,1889, John E. Gunter, Commissioner.
D.S.Williams, Clerk Com."

- - - - -

United States of America, }
Indian Territory, }ss.
Northern District. }

W.C.Rogers, being duly sworn on oath deposes and says: that he is a citizen and resident of the Cherokee Nation, Indian Territory. That his post office address is Skia-atook, Ind. Ter. that he was born and raised in the above said Nation and Territory; that he is 46 years of age:

Affiant further states that he is slightly acquainted with Irene J. House, an applicant for admission to citizenship in the Cherokee Nation as shown by copy of her application.

Affiant further states that his father's name was Charlie Rogers- who was a son of Capt John Rogers and the said Capt. John Rogers was the only man of that name that ever lived in the Cherokee Nation that this affiant ever heard of; that the said Capt. John Rogers this affiants grandfather lived at Grand Saline, I. T. and died in Washington, D.C.

This affiant states that his father Charlie Rogers, had one sister and five brothers viz. Synthia Rogers, Lewis Rogers, George Rogers, Nelson Rogers, ~~xxxxxxxxxx~~ Granvil Rogers and Randolph Rogers; that he (this affiant) was well and personally acquainted with the above said parties- except Granvil and Randolph Rogers, who were killed when this affiant was quite young.

This affiant states that he was 34 years of age, when his father Charlie Rogers, died, that his father never had any other family(line in ink drawn through word family) brothers or sisters than the ones above mentioned; that the said Polly Rogers named in the application for citizenship of Irena J. House, was not a sister of his fathers; that his father never had but the one sister viz. Cynthia Rogers that this affiant ever heard of ; that this affiant was well acquainted with his aunt Cynthia Crump-"

Just here the following is inserted on separate paper:

"EXECUTIVE DEPARTMENT OF
CHEROKEE NATION, I, John L. Adair, Executive Secretary of the Cherokee Nation, do hereby certify that I have compared the foregoing with the original record in this Department, and that the same are correct transcripts and copies therefrom.

In witness thereof I have hereunto set my hand and affixed the Great Seal of said Cherokee Nation, at Tahlequah, this, the 5th day of Feb. 1896.

(signed) John L. Adair,
(seal) Executive Secretary."

Then the above affidavit continues:

"(nee) Rogers that she lived with this affiants father for a number of years prior to her death.

Affiant states he has often talked with his father Charlie Rogers and his aunt Cynthia Crump (nee Rogers) about his relatives; that they never spoke of any other sister in their family; that this affiant was about 30 years of age when his Aunt Synthia Crump died; that theytold him their never was (words "never was" marked over with ink) father never had any other daughter or daughter other than Cynthia Rogers.

Affiant states that his father told him a number of times, that this affiants grandfather Capt John Rogers never had any other family other than the one above mentioned; that this affiant never heard his father Charlie Rogers or any of his relatives speak of his grandfather Capt John Rogers owning or running a boat up any river.

Affiant states his father Charlie Rogers was borne on Big Mulberry, South-east of Van Buren, Arkansas, in the year of 1817.

Further affiant saith not.

W.C.Rogers.

Subscribed and sworn to before me on this the first day of October 1896.

(signed) William M. Hall,
Notary Public,
(seal) My Commission expires January 16th,1900."

- - - - - - -

"United States of America, }
Indian Territory, {SS
Northern District. }

Mrs. Sarah Carter being first duly sworn on oath states: that she is a citizen and resident of the Cherokee Nation, Ind. Ter. and her post office address is Ringe, I.T., that she is 65 years of age.

Affiant states that she is the daughter of Charlie Rogers. that her grandfather on her father's side was Capt John Rogers,

Affiant further states; that W.C.Rogers is her brother, and that she has heard read the foregoing affidavit of W.C. Rogers, and knows the contents thereof; that the facts therein set forth are true as she verily believes.

(signed) Sarah Carter.

Subscribed and sworn to before me this the first day of October 1896.

William N. Hall,
Notary Public,

My Commission expires January 16" 1900."
(seal)

- - - -

"Before the Honorable Henry L. Dawes, Frank C. Armstrong, A.S.McKennon, T. B. - (name tornoff) A. B. Montgomery, Commissioners.

In the matter of application of Joanah Barber et al- for citizenship in the Cherokee Nation.

Nation's No.1573
Commission's No...

Your respondent, S. H. Mayes, Principal Chief of the Cherokee Nation, comes now and demurs the said application, and for the grounds thereof says:

1st. That this Commission has not jurisdiction over the parties or subject matter of this controversy, and no legal right, therefore, to hear and determine the same.

2nd. That the application does not state facts sufficient, if true, to show that the applicants are entitled to citizenship.

Respondent not waiving his aforesaid demurrer, but insisting upon the same for answer to said application, says that John Rogers through whom the petitioners claims toderive their right to citizenship in the Cherokee Nation is not now, and has not been a citizenof the Cherokee Nation, since the removal of said Nation, west to the Indian Territory as at present located and defined; that his name does not appear on any of the authenticated rolls of said Nation; that neither theyner any of their ancestors now reside, or ever have resided in the Cherokee Nation and Indian Territory, as citizens thereof.

Having fully answered, your respondent asks to be hence dismissed.

S.H.MAYES, Principal Chief Cherokee Nation.

By Hutchings, Hastings & Boudinot, Attorneys.

John L. Adair, Executive Secretary, Cherokee Nation, having been first duly sworn, states thatthe matters contained in the foregoing answer are true, to the best of his knowledge and belief.

(signed) John L. Adair,

Subscribed ~~before~~ and sworn to before me this, the 5 day of Oct. 1896.

(signed) D.J.Ball,
Notary Public."
(seal)

Indorsed on back as follows: " 1864 90 Nation's No.1573, Commission's No..... In re Application of No 2 Joanah Barber Demurrer and Answer Filed Mar 13 1897 Jas. A. Winston, Clerk/ Filed Oct 7 1896 H.M.Jacoway,Secy."

"BRIEF.

BEFORE THE HONORABLE COMMISSION OF THE UNITED STATES OF AMERICA,

duly appointed and empowered to Act, under and by virtue of the Act of Congress of June 4" 1896, to hear and determine all Claim for Citizenship on the Five Civilized Tribes of Indians, to-wit:
Cherokee, Creek, Choctaw, Chickasaw and Seminole Indians.

In the matter of the application for Citizenship in the Cherokee Nation, of Joanna Barber and her children, to-wit:

Onis E. Barber, William R. Barber, James E. Barber, Johnnie Barber and Joel A. Barber.

In the matter of the application for Citizenship in the Cherokee Nation of Joel A. Barber and his children, to-wit: Mattie Barber, Toliver Barber, George A. Barber, Frankie O. Barber, Jesse Barber and Ethel Barber.

In the matter of the application for Citizenship in the Cherokee Nation, of Mary A. Bomer and her child, to-wit: Ines Bomer.

In the matter of the application for Citizenship in the Cherokee Nation of Emma L. Murphy and her child, to-wit: Claude M. Murphy.

In the matter of the application for Citizenship in the Cherokee Nation of Emma Moore and her children, to-wit: Anna J. Moore, Jackson D. Moore, Rheuby Moore and Gladys Moore.

In the matter of the application for citizenship in the Cherokee Nation of Attie L. Hunt and her child, to-wit: Dorman Hunt.

In the matter of the application for Citizenship in the Cherokee Nation of Alsey J. Smart and her children, to-wit: Georgia A. Smart and Emzy M. Smart.

In the matter of the application for Citizenship in the Cherokee Nation of Joannah J. Garlinghouse and her children, to-wit: Myrtle O. Garlinghouse, Cora L. Garlinghouse and Birtha M. Garlinghouse.

In order that the Honorable Commission may clearly and fully understand the proof and merits of the Claim of the aforesaid Claimants, we deem it necessary to present to the Honorable Commission, the genealogy of each of said claimants, to-wit:

Joanna Barber, whose maiden name was Joanna Petty, is a daughter of Elizabeth Petty, nee Dawson and a grand daughter of Polly Dawson, nee Rogers and a great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by he proof herein submitted.

Joel A. Barber, is a son of Joanna Barber, nee Petty and grand son of Elizabeth Petty, nee Dawson and a great grand son of Polly Dawson nee Rogers and a great great grand son of Captain John Rogers, who was a Cherokee Indian by blood as shown by the proof herein submitted. Mary A. Bomer, whose maiden name was Mary A. Barber, is a daughter of Joanna Barber and grand

daughter of Elizabeth Petty, nee Dawson and great grand daughter of Polly Dawson, nee Rogers and a great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by the proof herein submitted.

Emma Murphy, whose maiden name was Emma Barber, is a daughter of Joanna Barber, nee Petty and a great grand daughter of Elizabeth Petty nee Dawson and a great great grand daughter of Polly Dawson, nee Rogers and a great great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood, as shown by the submitted proof.

Emma Moore, whose maiden name was Emma Barber, is a daughter of Joanna Barber, nee Petty and a grand daughter of Elizabeth Petty, nee Dawson and great grand daughter of Polly Dawson, nee Rogers and a great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood, as shown by the submitted proof.

Attie L. Hunt, whose maiden name was Attie L. Barber, is a daughter of Joanna Barber, nee Petty and a grand daughter of Elizabeth Petty nee Dawson and a great grand daughter of Polly Dawson, nee Rogers and a great great daughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by the submitted proof.

Alcey J. Smart, whose maiden name was Alcey J. Barber, is a daughter of Joanna Barber, nee Petty and a grand daughter of Elizabeth Petty nee Dawson and a great grand daughter of Polly Dawson, nee Rogers and a great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood as shown by the proof herein submitted.

Joanna J. Garlinghouse, whose maiden name was Joanna J. Smart, is a daughter of Alcey J. Smart, nee Barber, and a grand daughter of Joanna Barber, nee Petty and a great grand daughter of Elizabeth Petty, nee Dawson and a great great grand daughter of Polly Dawson, nee Rogers, and a great great great grand daughter of Captain John Rogers, who was a Cherokee Indian by blood, as shown by the proof herein submitted

Therefore, the Claimants pray the Honorable Commission, thatafter a careful examination of their application and an impartial investigation of the proof herein submitted, you will adjudge each of said Claimants, together with their aforementioned Children, entitled to Citizenship in the Cherokee Nation, and that you place the names of each Claimant, together with the names of their aforementioned children, upon the Cherokee Roll, and that you grant to the them all the rights, privileges and immunities of Citizens of the said Cherokee Nation.

(signed) Hubbard, Garland & Watts,
Council for Petitioners."

Indorsed on back as follows: "No 3 Filed Feb 24 1897, Jas. A. Winston, Clerk."

- - - -

Commissioners,
Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Cabaniss, Alexander B. Montgomery,-H.M.Jacoway,Secretary.

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Vinita, Indian Territory, Oct 29,1896.

Joanna Barber, Filed Sept. 8, Answer filed,

vs. Application denied.

Cherokee Nation.

I, H.M.Jacoway, Jr., Secretary, do hereby certify that the above and foregoing is a true and correct copy of Cherokee Record A. page 297 of the Commission to the Five Civilized Tribes.

Given under my hand and offeial signature this the 12 day of Feb. 1897.

H.M.Jacoway, Jr.,
Secretary."

Indorsed as follows: "1864 No. 4 Filed Feb 24 1897 Jas A. Winston, Clerk."

- - - - - -

"BEFORE THE HONORABLE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Joanna Barber et al,
vs
Cherokee Nation. No.1864.

AFFIDAVIT FOR APPEAL.

Now come the said Joanna Barber et al applicants for citizenship in this case by W.B.Watts one of their attorneys, and pray an appeal from the decision of the said Honorable Commission to the United States District Court as provided by the Act of Congress approved June the 10th, 1896.

And the said W.B.Watts being duly sworn and acting on behalf of said applicants says that the appeal prayed for in this case is not asked for the purpose of delay but that justice may be done the appellants.

(signed)W.B.Watts,

Sworn and subscribed to before me this 22 " dayof December 1896.

(signed) J.C.B.Lindsey,
(SEAL)" Notary Puvblic.
My Commission expires march 29th 1897."

Indorsed: "Court #90."

- - - - -

"Received of H.M.Jacoway, jr., Secretary to The Commission to the Five Civilized Tribes, the original papers, in the cause of - - - - vs - - - - Nation, as follows:

Witness my hand and official seal at Muskogee this the 26 day of Feby 1897.
(SEAL) (signed)J.A.Winston, Clk. "

Indorsed: "Court # 90 No.1864. Receipt for original papers

in the case of Joanna Barber et al vs. Cherokee Nation.
Received and filed this ... day of ... .189.....Secretary."

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"IN THE UNITED STATES COURT FOR THE INDIAN TERRITORY,
NORTHERN JUDICIAL DIVISION, AT MUSKOGEE, IND. TER.

Joanna Barber Onis E. Barber, William R. Barber, James E. Barber, Jennie Barber, Joel A. Barber, Mary A. Barber, Emma Moore, Attie L. Hunt, Alcey J. Smart, APPELLANTS.
vs.
CHEROKEE NATION, APPELLEE.

PETITION FOR APPEAL FROM THE DECISION OF THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

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Come now the appellants in the above entitled cause and petition the Court to grant an appeal in said cause from a decision of the Commission, known as the Dawes Commission, created and empowered to treat with the Five Civilized Tribes of Indians, to-wit: the Cherokee, Creek, Choctaw, Chickasaw and Seminole Indians, and to pass upon and decide applications for citizenship in the said Five Civilized Tribes, which decision by said Commission was rendered by authority of, but not in accordance with, an Act of Congress passed and approved June 10th, 1896, and by which decision on the 29th day of October, 1896 the aforesaid appellants were denied their rights to citizenship in the Cherokee Nation, Indian Territory.

The facts relied upon by the appellants to establish their rights to citizenship in the Cherokee Nation, as aforesaid are as follows, to-wit: The affidavits of E. Dawson, S.R.Dawson W.A.Dawson, F.M.Dawson.

Said affidavits fully and conclusively establishing the fact that said applicants are Cherokee Indians, by blood and descent, and entitled to rights of citizenship in the Cherokee Nation.

Said affidavits, together with the application, of said appellants, were, prior to September the 10th,1896, filed with and submitted to said Commission for its investigation, consideration and decision.

That a certified copy of said application, together with the accompanying affidavits, were served upon the Chief, or Attorney General, of said Cherokee Nation, prior to September the 10th, 1896.

The errors of the Commission in rejecting the claims for citizenship of said appellants are the grounds for appeal to this Court, to-wit:

FIRST. The Commission erred in rendering its decision on said claims adversely to the appellants and against the proof submitted by said appellants.

SECOND: The Commission erred in investigating the claims of appellants and denying the same during the absence of a majority of the members of the Commission.

THIRD: The Commission erred in refusing the appellants th right and privilege of examining the proof submitted by appellee in support of the answers filed by the appellee and denying the appellants the right of filing replication to appellee's answer or producing proof in rebuttal to the same.

FOURTH. The Commission erred in denying the appellants the right of a trial of their claims by a competent jury, as granted to them by law and the Constitution of the United States.

FIFTH. The Commission erred in refusing appellants the right to be present in person, or by attorney, during the trial and determination of their claims before the said Commission.

SIXTH. The Commission erred in refusing to issue process for witnesses and to send for persons and papers when requested to do so by said appellants.

SEVENTH. The Commission erred in deciding against the right of these appellants to be enrolled as citizens of the Cherokee Nation.

EIGHTH: The Commission erred in deciding against blood, holding that blood was not a test of the right of citizenship in said Cherokee Nation.

NINTH: The Commission erred in deciding against the question of residence, holding that residence in the Cherokee Nation was not a test of the right of citizenship in the said Cherokee Nation.

TENTH: The Commission erred in not entering upon their docket or record the grounds upon which the claims of appellants were denied and refusing to notify appellants the grounds of denial or rejection.

ELEVENTH: The Commission erred in examining the claims and proof of appellants and denying the same while the Commission was not clothed with any legal authority, nor had jurisdiction, to render decision on said claims and deny the same.

TWELVTH: That the Act of Congress approved June the 10th, 1896, was unconstitutional and had no power or legal right to confer jurisdiction on said Commission to try and determine the rights to citizenship of said appellants, and said Commission erred in determining the rights and denying the same to said appellants.

THIRTEENTH: That Congress had no power by enactment to create, appoint and empower a judiciary, and said Commission erred in denying the claims of said appellants without any legal authority to do so.

Wherefore, the appellants in this cause pray that an appeal be granted to this Court and that a trial, de novo, be granted to appellants, and that appellants be permitted to introduce new testimony, and that an order be made requiring said Commission to send all pleadings, papers and records filed before it in this cause to this Court, and that the Cherokee Nation, the appellee in this case, be cited to appear at this Court and plead and defend against the ~~[illegible]~~ this ~~[illegible]~~ appeal and show why the appellants should not by the rules, orders and decisions of this Court be adjudged entitled to citizenship in the said Cherokee Nation, and the appellants will ever pary.

(signed)
W.B.Watts,
A.H.Garland,
W.J.Watts,
Attorneys for appellants."

Indorsed on back: " Cherokee Citizenship Case, No. 90 No 5
Joanna Barber et al vs Cherokee Nation Filed Dec 23 1896
Jas A Winston clerk Watts, Garland & Watts, Attorneys for Appellants."

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"SUMMONS.

90 wgw
United States of America, }
Indian Territory, }ss.
Northern District. }

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Marshal for the Northern District, Indian Territory:

You are commanded to summon the Principal Chief of the Cherokee Nation, or the Attorney General of said Nation, to answer on the first day of the next May Term of the United States Court for the Northern District, Indian Territory, at Muscogee, Indian Territory, being the 4th day of May, 1897, A.D.189-- a petition praying an appeal from the decision of the Commission to the five civilized tribes duly filed in said Court by Joanna Barber, Omis E. Barber, Wm R Barber, Jas E Barber, Jennie Barber, Joel A Barber, Mary A Barber, Emma Moore Attie L. Hunt, Alsey J Smart, who claim to be entitled to be enrelled as citizens of said Nation, to the United States Court for the Northern District Indian Territory, which petition is now pending in said Court, and warn him that upon a failure to answer said petition within thirty days from the time of the service of this writ, the same will be taken for confessed, and you will make due return of this summons within ten days after the actual service of this writ.

Witness the Honorable William M. Springer, Judge of said Court, and the seal thereof, at Muskogee, Indian Territory, the 28th day of Dec, 1896 A.D.189--

(signed) J.A.Winston, Clerk.

(SEAL)"

" MARSHAL'S RETURN.

I received this Summons the 28" day of December A.D. 1896 and served the same as follows: W.T.Hutchings, Attorney for the Cherokee Nation Ind Ter Accepted Service on the within at Muscogee, Ind Ter on this 12" day of January 1897

(signed) W.B.Watts

~~U.S.Marshal~~

By .....Deputy."

Indorsed on back as follows: "Citizenship Case No.90 No. 6..vs..Nation...Summons....Attys for Claimants. "

- - - - -

"Joanna Barber et al.
vs. No.90.
Cherokee Nation.

Mr. N.A.Gibson, Special Master to whom this case was referred, submits the following report:

'IN THE UNITED STATES COURT IN THE INDIAN TERRITORY, NORTHERN DISTRICT, AT MUSKOGEE.

JOANNA BARBET ET AL	)	
-VS)-	:	#90 REPORT OF SPECIAL MASTER.
THE CHEROKEE NATION.	)	

----------oOo----------

I, N.A.Gibson, Special Master herein, show to the Court that under the general order herein, I have examined the proof and pleadings herein, which is hereto attached and made a part hereof, and that I find as follows:

I

That this cause was instituted on September the 8th,1896, before the Dawes Commission to the Five Civilized Tribes, by Joannah Barber, and Isaac J. Barber, her husband, and their children, Onis E., William R., James E., Johnnie and Joel A. Barber. That Joel A. Barber has the following children. Mattie, Toliver, George A., Frankie O., Jesse and Ethel Barber. That the application includes also Mary A. Bomer and her child Inez Bomer, Emma L. Murphy and her child Claud Murphy, Emma Moore and her children Anna J., Jackson D., Ruby and Gladys, Attie L. Hunt and her child Dorman Hunt, Alsey J.Smart and her children Georgia A. and Emzey M. Smart, Joanna J. Garlinghouse and her children Myrtle O., Cora L. and Bertha M. Garlinghouse. That this application was by the said Commission tried and rejected on October 29,1896, with no reasons given for the decision, and that subsequently on December 23, 1896, the claimants appealed to this Court. That the parties all live in the Cherokee Nation, Indian Territory.

II

That the parties claim the right to be admitted to citizenship in the Cherokee Nation by reason of their descent from Polly Rogers, who is claimed to have been a Cherokee Indian by blood. That they filed in support of their application the affidavits of S.R.Dawson, E.Dawson, Francis M. Dawson and W.A. Dawson, who testify that Joanna Barbe r is the daughter of Elizabeth Petty, nee Dawson, who was the daughter of Polly Rogers, who married a white man by the name of Samuel Dawson, and that Polly Rogers was the daughter of Captain John Rogers and Ailsey Vann. That these witnesses areall Cherokee citizens by blood, acquainted with the claimants, and according to their testimony, related to them by blood.

That the appellee introduces to contravert this testimony the decision of the Cherokee Commission on Citizenship, rendered in the year 1887, in which these claimants were rejected by that Commission and also the affidavits of W.C.Rogers a grandson of Captain John Rogers, and Mrs. Sarah Carter, a grand daughter of Captain John Rogers, both of whom state that they have never heard of any daughter of the said Captain John Rogers by the name of Polly Rogers, and that Cynthia Rogers was his only daughter.

III

The claimants contend that they as residents of the Cherokee nation, and as relatives of the Dawson family, who are recognized citizens of the Cherokee Nation by blood, are entitled to be admitted to the Cherokee Nation as citizens by blood, while the appellee contends that John Rogers, through whom the petitioners claim, is not now and has not been a citizen of the Cherokee Nation since the removal West; that his name does not appear on the rolls of the Cherokee Nation, and that neither he nor his ancestors ever resided in the Cherokee Nation as citizens thereof.

The premises considered, in view of the unsettled condition of affairs in the Cherokee Nation at the time when Captain John Rogers, the ancestors through whom these claimants trace their Cherokee blood, lived, and especially in view of the absence of a marriage law and of records pertaining to marriage, I am of the opinion that these claimants have proved that they are descended from Capt. John Rogers, who resided in the Cherokee Nation and was a recognized citizen, though they do

not show that he was ever enrolled as such, and I therefore find that the claimants are all residents of the Cherokee Nation, Indian Territory, and that they are all Cherokee Indians by blood. That they have resided in the Cherokee Nation since 1887, and probably longer, though the proof does not state definitely how long they have so resided.

I ask that the Court allow me a reasonable fee for my services herein as Special Master.

Respectfully submitted this 16 day of August, 1897.

(signed) N.A.Gibson,
SPECIAL MASTER.

My Fee Paid.

No Exceptions Filed."

"BY THE COURT.

From this report it appears that the claimants base their right to be enrolled as citizens of the Cherokee Nation upon the ground that they are the descendants of a Cherokee Indian by blood, but their ancestors through whom they claim have never resided in the Cherokee Nation as now constituted. It appeats that they have resided in the Cherokee Nation since 1887, and probably longer, though the prood does not state definitely how long they have so resided. It does not appear that the applicants or anyof their ancestors have ever been recognized as members of the Cherokee Nation.

The judgment of the United States Commission rejecting this case is affirmed, and the application of the claimants to be enrolled as citizens of the Cherokee Nation is denied."

Indorsed on back: "90 No.7 Joanna Barber et al V Cherokee Nation, Final Report of Special Master, Filed Aug 17,1897, Jas A. Winston, Clerk."

Foregoing papers in Joanna Barber case enclosed in jacket indorsed: "90 Joanna Barber et al Vs Cherokee Nation."

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"NOTICE.

#90

UNITED STATES OF AMERICA INDIAN TERRITORY NORTHERN DISTRICT.	} SS	In the United States Court for said District. In the matter of the application of Joanna Barber et al to be enrolled as citizens of the Cherokee Nation.

To the Commission to the five civilized tribes.

You are hereby notified that an appeal has been taken in the matter of the application of Joanna Barber et als to be enrolled as citizens of the Cherokee Nation, from the said Commission, to the United States Court for the Northern District of the Indian Territory, and that your tribunal is requested by said Court to transmit at the earliest time practicable to said Court, at Muskogee, Indian Territory, a transcript of all the entries made in the docket of your tribunal relating to the case, together with the depositions and testimony taken before said tribunal; the decision thereof on the application, and all original papers relating thereto.

Witness the Honorable William M. Springer, Judge of said Court, and the seal thereof, at Muskogee, Indian Territory, the 23rd day of Dec. 1896. A.D.189--.

(SEAL) (signed)J.A.Winston,Clerk "

Indorsed: No.1864 Joanna Barber et al vs Cherokee Nation,

Appeal Order of U.S.Court."

Foregoing paper enclosed in jacket marked: "No.1664."

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BY MR. HUTCHINGS:

We now introduce the original record in the citizenship case of Irene J. House, et. al., before the Commission, in 1896, the Court number of same being 238. Said case being denied by the Commission; appealed to the United States Court, and the decision of the Commission affirmed.

In this case we desire to call especial attention to the certified copy filed therein of the testimony of Arthur Baker, the certified copy having been made in 1894, being the testimony of Dr. Baker in the case of Robert Dawson against the Nation, number 108, before the Citizenship Commission, and which was made January 19,1882.

BY MR. McKENNON: To all of which the applicants object, because the same is immaterial, irrelevant and incompetent.

The papers in Court No.238, just introduced above, are as follows:

"Office of Commission on Citizenship,
Cherokee Nation, Tahlequah, January 19th,1882.

No.108
Robert Dawson et al } Exhibit C.
vs }
Cherokee Nation. }

Testimony for Claimants.

Witness, Dr. Arthur Baker sworn testified as follows:

My name is Arthur A. Baker I reside at Berryvill Arkansas Carrol County My age is 7 3 years I am not a Cherok e. I lived in the Cherokee Nation about three years when I first came to Arkansas I have been acquainted with him since he became a citizen of Carrolls County some 35 years - At my Mothers house near Calhoun I became acquainted with the claimants Robt Dawson grandmother on mother's side she was frequently at my mothers house though she Anna Pruet lived in the Nation side; She claimed to be a half sister to big Joe Vann, also claimed to be half Cherokee, the first time she brought the claimants mother to my mothers house she the claimants mother was abour grown when I was a little boy. She called her Daughter Polly Rogers, Said Captain John Rogers who ran a Boat up the river was the father of the Child; I saw the girl frequently there at my mothers and there at Louis Rosses Store I saw her occasionally until I was 15 or 16 years of old and I think then Old Capt. John Rogers took her off to school, I saw her no more from the time old Capt. John Rogers took her off till I saw her her in Arkansas the wife of old Samuel Dawson, I stayed all night there and she and I had a talk over our old matters and I asked her where she became acquainted with Dawson and she said at the time she was going to school and she said after she left school that Dawson followed her home, to the Nation and they were there married. I

have told that precisely in the words that she used, Capt John Rogers claimed to be one fourth Cherokee. The claimant is the son of Polly Rogers and I know Polly Rogers to be the daughter of Anna Pruett and I know the claimant to be the son of Polly Dawson.

Capt. Rogers then resided in the Cherokee Country about twenty (Word "twenty" marked through) twelve miles below Calhoun on the Hiwassee river Anna Pruet resided in the Cherokee Nation as long as I staid there the Dawsons when I got acquainted with them Arkansas were recognized where they were as Cherokees. Robert Dawsons children is Buck, John, Marian and two girls, The children named in the petition I recognize as being the claimants.

Question by Solicitor:

No. 1 How many children did Polly Rogers have? ~~five~~
Ans. 1 Five I think that's all.
No.2 Did you say something about ~~xxxxx~~ some one being married twice
Ans. 2 The claimant was married twice.
No. 3 Could Anna Pruet speak Cherokee
Ans 3 Yes she could speak it well
Ques 4 Did Polly Rogers speak Cherokee
Ans 4 She could when she was young
Ques 5 How far did you live from Anna Pruet
Ans 5 Just across the river about 3/4 of a mile
Ques 6 Was Calhoun in the Cherokee Nation
Ans 6 It was on both sides of the river part in the
Ans 6 nation and part out in the state
Ques 7 Which Harnage was it went to Texas
7 George went first, then John went, they were the sons of old man Harnage, that lived up here near the line.
Ques 8 Did the claimant go to Texas
Ans 8 No the Claimant did not go to Texas
9 What connection was claimant and Polly Rogers
9 The Claimant is the son of Polly Rogers
Marion here is the grandson of PollyRogers.
10 Where does claimant now live?
10 He lives in Carell Co Arkansas.
11 Do you know what relation old Capt John Rogers was to Charles Rogers here in Cooweeskoowee
11 They claimed ~~kin~~ kin but what kin I dont know there were two Capt John Rogers in the Nation I am speaking of the time when I first come to this country about the year 1830
12 Was Anna Pruit the maden name of claimants grandmother
12 Yes that was her maden name the Indians called her Sinee

(signed)Arthur his x mark Baker

Witness hand paralyzed is the reason why he signed by a mark thus x

I R T Hanks Assistant Executive Secretary do hereby certify that the aforegoing document is a true and correct copy of the original as appears of record in the Executive Department of the Cherokee Nation.

Given ~~xxxxx~~ from under my hand and the seal of the Cherokee Nation on this the 5th day of December 1894.

(signed)R.T.Hanks,
Asst Exec Sec.

(seal)

"To the Honorable the Dawes Commission on Citizenship in the Five Civilized Tribes in the Indian Territory:

Your petitioner, Irena J. House, undersigned, respectfully states that she is a Cherokee Indian by blood, and asks to be enrolled as a member of the Cherokee Nation of Indians in the Indian Territory. That she derives her said Indian blood from Johanah Barber her Mother who is a Cherokee Indian by blood The said Johanah Barber being a daughter of Elizabeth Petty who was a daughter of Polly Rogers and Samuel Dawson, the said Polly Rogers being the Daughter of Capt John Rogers and Anna (alsy Vann) Pruet, Cherokee Indians, as shown by a certified copy of the affidavit of Dr. Arthur A. Baker, which is hereto attached as exhibit A Also affidavits marked exhibits B- C - D - and E.

Your petitioner states the above facts as the lawful grounds of her application for citizenship in the Cherokee Nation, and prays that her claim may be fully investigated by your Honorable Commission and that she be adjudged to be a citizen of said Cherokee Nation of Indians and entitled to all the rights and privileges pertaining to such citizenship in accordance with the laws and treaties with said Nation of Indians.

My age is 34 years. My Post Office address is Talala, Ind/ Ter. My family consists of the following named persons: My husband and children as follows:
W.J.House, aged 34 years, Chas. C. House, aged 9 years; Winson T. House, aged 8 years, Anny W. House, aged 5 years.

WITNESS my hand this 19 day of August 1896.
(signed) Irene J. House.

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Northern Judicial
District, Ind. Ter. SS.

Personally appeared before me, the undersigned authority, Irena J. House, to me known to be the petitioner in the above petition, who being by me first duly sworn upon her oath says that she is the petitioner in the above petition, that she has read (or heard read) the said petition and that the facts stated therein are true, as she verily believes.
(signed) Irene J. House.
Subscribed and sworn to before me at Talala, Ind. Ter. this 19 day of August A.D.1896.
(signed) J.Barricklaw,
(seal) Notary Public, My commission expires June 8 1899

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"Exhibit A.
Northern Judicial Division,
Indian Territory.
Joanah Barber being duly Sworn according to law, on Oath States my name is Joanah Barber I am 61 Sixty one years old my Post office address is Watova Ind Ter- My Husband occupation is farmer I am a Cherokee in Cooweescoowee Dist I am a Cherokee Indian by blood my mother being Elizabeth Petty (nee Dawson) Daughter of Samuel Dawson and Polly Dawson (nee Rogers) and said Polly Rogers is a daughter Capt Rogers and Anna Vann (commonly called Alsey Vann)

the following Irene J. House is my daughter; she was born in Williamson County Texas May 13" 1863, moved with her husband children to the Indian Tery and settled near Talala I Tery

(signed) Joanah Barber

Subscribed and sworn to before me this 19# day of Aug.1896.

(signed)J.Barricklaw,

Notary Public,My commission expires

(seal) June 8 1899 "

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"EXHIBIT B.

Indian Territory,
Northern Judicial District ss.

F.M.Dawson being duly sworn according to law deposes and says:

My name is F.M.Dawson; I am 54 years of age; my post office address is Afton Indian Territory I am a farmer by occupation and reside in the Cherokee Nation.

I am a recognized Cherokee citizen by blood. I was born in Carroll County Arkansas near Berryville. I derived my Cherokee Indian blood from my grandmother whose maiden name was Polly Rogers through my father Robert Dawson, My grandmother Polly Rogers was a Cherokee Indian and was married to Samuel Dawson my grand father in the Old Cherokee Nation in Tennessee. My grand parents Samuel Dawson and his wife Polly came west from the Old Cherokee country in about 1832 and settled in Western Arkansas and later came on to the Indian Territory and the father of this affiant Robert Dawson and family settled in the Cherokee Nation Indian Territory, Robert Dawson, the father of affiant was also a recognized citizen of the present Cherokee Nation by reason of his Cherokee Indian blood.

The said Robert Dawson father of this affiant and Elizabeth Dawson who married John Petty were full brother and sister by blood, both being children of said Samuel Dawson and his wife Polly Dawson whose maiden name was Polly Rogers The said Elizabeth Petty was the mother of Joannah Barber who is a full cousin by blood of this affiant in the Indian side. The ~~affiant~~ said Joannah Barber is the mother of Irene J. House nee Barber who is a second cousin of this affiant in the Indian side.

This affiant further states that he has seventy five to a hundred blood relatives who reside in the Cherokee Nation and are recognized Cherokee Indians by blood and drew their per capita money all the last payment; said citizens and relatives derived their Indian blood from the same source that the above named Irene J. House, derives her Indian blood and right.

This statement I have made to John H. Koogler, a Notary Public at Muscogee Indian Territory and it has been written down by him at my dictation. Such parts of this testimony which refer to matters occuring previous to my recollection I know by means of family history and traditions which facts I have always been taught and toldof by my parents and grand parents from childhood up, the facts stated as occurring since my childhood I know of my personal knowle dge. Affiant further states that he is not personallt interested in the prosecution of the application of said Irene J. House for citizenship in the Cherokee Nation.

(signed) F.M.Dawson."

"Indian Territory,
Northern District.

I John H. Koogler, hereby certify that the annexed and foregoing statement and affidavit was dictated to me by F.M.Dawson and was subscribe d and sworn to by him and was written by me from his oral statement at my office in Muscogee Indian Territory this 14" day of August 1896, and I further certify that the said F.M.Dawson is personally known to me and that he is a creditable person and entitled to belief.

(signed) John H. Koogler,
(seal) Notary Public."

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Northern Judicial District,
Indian Territory.

EXHIBIT D.

E. Dawson, being duly sworn according to Law on oath states: My name is E. Dawson; I am 61 years old; my post office address is Talala, Ind. Ter. I am a Farmer by Occupation, and reside in Coweescoowee District- Cherokee Nation. I am a recognized Cherokee Indian by blood and exorcise all the rights and immunities of a Cherokee citizen now living in the present Cherokee Nation. I was born in Carrell County Arkansas near Berryville. I derived My Cherokee Indian blood from my Grandmother Polly Rogers through my father Robert Dawson/ My grand mother Polly Rogers was a Cherokee Indians and was Married to my Grand Father Samuel Dawson in the old Cherokee Nation in Tennessee. My Grand Parents, Samuel Dawson and his wife Polly Dawson whose Maiden name was Polley Roger Come west from the old Cherokee Country in about the year 1832, and settled in Western Arkansas, and later come on to the Cherokee Nation. My father Robert Dawson was a recognized member of the Cherokee Nation when he died, by reason of his Cherokee Indian blood.

The said Robert Dawson the Father of this affiant, and Elizabeth Dawson who married John Petty were full brother and sister by blood, both being Children of the said Samuel Dawson and Polly Dawson his wife she being the same Polly Rogers as aforesaid. The said Elizabeth Petty was the Mother of Joanah Barber who is a full cousin by blood to this affiant on the Indian side, the said Joanna Barber is the Mother of Irena J. House, whose Maiden name was Irena J. Barber and a second cousin of this affiant on the Cherokee Indian side. This affiant further states that he has seventy Five to a hundred blood relations who reside in the Cherokee Nation and are recognized Cherokee Indians of the present Cherokee Nation and exorcise all the rights and privileges as such Cherokee Citizens, they having Drawn their shares of the Strip Money at the last per capita payment Made by the Cherokee Nation.

Said citizens and relatives derived their Cherokee Indian blood from the same Source, as did the above named Irena J. House.

I have made this statement before J. Barricklaw, Notary Public at Talala, Ind. Ter. and affiant further states that he has no personal interest in the prosecution of the claim for citizenship in the Cherokee Nation of the said Irena J. House.

That the above facts which are within the personal knowledge of affiant or within his years of discretion he knows personally, and the other facts which occurred before the recollection of affiant he testifies to from what he has been taught from his family history and traditions.

That the relationship existing among all his people in the Cherokee Nation he knows from his personal knowledge and that they are related on the Cherokee Indian side.

(signed)E.Dawson.

Subscribed and sworn to before me this the 19 day of August 1896

(signed) J. Barricklaw,
Notary Public,My commission expires June 8,1899,
Notary Public.

(seal)."

- - - - -

" Cherokee Nation,
Cooweescoowee District.

EXHIBIT E.

Before me the undersign authority this day, personally appeared W.A.Dawson who is to me well and personaly acquainted, and after being dewly Sworen; deposeth and says, that he is well acquainted with Irena J. House and knows she is a Cherokee Indian, and that he knows she is the daughter of Joana Barber, who is a niece of Robt. & James Dawson, who are both Cherokee Indians and recognized citizens of the Cherokee Nation.

Affiant further says that Irena House is the grand daughter of Mrs. Petty, who was a full sister to Robt & James Dawson.

Affiant further says that he knows that Irena House is a lineal desendent of Annie Dawson whose children (line through word "children") sons, Robt & James before spoken of are recognized citizens.

Affiant further says he has no interest in this suit.

(signed) W.A.Dawson.

Sworn and subscribed to before me this 17 day of August 1896.

(signed) William Lynch
Notary Public.

(Seal) My term expires Feb 6 1900."

Foregoingpapers indorsed on cover as follows:
"No: 3099 5464 Before the Dawes Commission on Citizenship in the Five Tribes. Irene J. House V.S. The Cherokee Nation. Petition and Proof, Will E. Linton, for Petitioner. Filed Sept 8 1896 A.S.McKennon, Com'r. Denied. Filed Feb 26 1897 Jas A. Winston clerk."

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"Received of H.M.Jacoway jr., Secretary to the Commission to the Five Civilized Tribes the original papers in the cause of .... vs..... Nation, as follows.....
Witness my hand and official seal at Muscogee this the 26 day of ~~Feb'y~~ Feb'y 1897 J.A.Winston, Clerk."
(Seal)"

Indorsed: "Court No.238 No.5464 Receipt for original papers in the case of Irena J. House vs. Cherokee Nation, Received and filed this ..... day of ..... 189..."

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"Irene J. House et al,
vs No. 238
Cherokee Nation.
Mr. N.A.Gibson, Special Master to whom this case was referred, submits the following report: (Insert report)

IN THE UNITED STATES COURT IN THE INDIAN TERRITORY.

NORTHERN DISTRICT AT MUSCOGEE.

IRENE J. HOUSE ET AL

VS # 238. REPORT OF SPECIAL MASTER.

THE CHEROKEE NATION.

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I, N.A.Gibson, Special Master herein, show to the Court that under the general order herein, I have examined the proof and pleadings on file in this case which are made a part of this report, and that I find as follows:-

I

That this cause is in reality a branch of Case No.90, Joanna Barber vs Cherokee Nation, the principal claimant herein being Irene J. House a daughter of Joanna Barber.

That this cause was instituted on September 8,1896 at which time application was made to the Commission to the Five Civilized Tribes for citizenship by blood in the Cherokee Nation.

That this case was tried by the said Commission on November 24, 1896 and the application denied, no reasons being given for the decision, and that on January 20,1897, the parties appealed from said decision to this Court.

That this application was made by Irene J. House, her husband, W.J.House, and their children Chas. G., Winston T., and Henry W. House. That they file in support of their application the affidavits of Joanna Barber, F.M.Dawson, Arthur A.Baker, E.Dawson, and W.A.Dawson. That these Dawson witnesses are recognized citizens by blood of the Cherokee Nation, and state that they are related by blood to the claimants herein on the Cherokee side. The claimants base their contention of a right to Cherokee citizenship upon the fact that the claimant Irene J. House is the daughter of Joanna Barber, who is the daughter of Elizabeth Petty, who was the daughter of Polly Rogers, and that Polly Rogers was the daughter of Capt. John Rogers and Ailsey Vann, who were recognized Cherokee citizens by blood. That the testimony shows that this Dawson family are recognized citizens of the Cherokee Nation, and that the claimants herein are cousins by blood upon the Indian side, and that they all claim through a common ancestor, Polly Rogers and Capt. John Rogers and Ailsey Vann, who were all recognized Cherokee Indians.

II

The appellee introduces in defense the record of the application of these claimants to the Cherokee Commission on citizenship in the year 1887, and the record of the rejection of the claimants, and further the affidavits of W.C.Rogers, a grand son of Capt. John Rogers, and Mrs. Sarah Carter, a grand daughter both of whom state that they never heard of any daughter of

Captain John Rogers by the name of Polly Rogers, and that he had only one daughter, whose name was Cynthia.

III

The claimants contend that they as residentsof the Cherokee Nation and as relatives of the Dawsons, who are recognized citizens of the Cherokee Nation by blood, are entitled to be admitted to the Cherokee Nation as citizens by blood, while the appellee contends that John Rogers, through whom thepetitioners claim, is not now and has not been a citizen of the Cherokee Nation since the removal west. That his name does not appear on the rolls of the Nation, and that neither he nor his ancestors ever resided in the Cherokee Nation as citizens thereof.

IV

The premises considered, I find that the claimants are the descendants of Captain John Rogers, and that it was entirely possible that in the condition of affairs at that early date in the Cherokee Nation, especially owing to the absence of a marriage law and of records pertaining to marriage, that these claimants should be the descendants of Captain John Rogers by a daughter, Polly Rogers, of whom the affiants for the appellee may never have heard.

I find that the claimants are residents of the Cherokee Nation, Indian Territory, where they have resided since 1887, and that they are Cherokee Indians by blood.

I ask that the Court allow me a reasonable fee for my services herein as Special Master.

Respectfully submitted, this 9 day of Nov 1897.

(signed)N.A.Gibson,
Special Master.

My fee paid,
No Exceptions filed."

Foregoing papers indorsed on cover as follows: "238, Irene J. House et al V Cherokee Nation Final Report of Special Master, Filed Nov 10 1897 Jas A. Winston, Clerk."

Foregoing papers enclosed in jacket indorsed as follows: "238, Irene J. House, et al vs. Cherokee Nation."

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BY MR. HUTCHINGS:

Well we close for the present.

TESTIMONY INTRODUCED ON BEHALF OF THE APPLICANTS:

D. W. C. DUNCAN, being first duly sworn, and being examined, testified as follows:

BY MR. McKENNON:

Q Please state your name, age and residence? A My name is D.W.C. Duncan, my age is 72 years, my residence, Vinita, Indian Territory.

Q Are you a duly recognized citizen of the Cherokee Nation by blood? A I am.

Q You gave testimony in this case once before did you not, before the Dawes Commission? A I did.

Q Before this Commission I will say, this Commission? A The Dawes

Commission? why I don't recollect who the Commissioner was, that was taken at Vinita, ex parte.
Q Were you in any way connected with the Cherokee Citizenship Commission in 1883 known as the "Tehee Commission"? A I was Clerk of that Commission.
Q For what length of time? A I don't recollect the exact length of time, I think it was about thirty days, during the continuance of that Commission, existence of that Commission.
Q You were the only Clerk it had during its existence were you? A I think I was,
Q You were Clerk of that Commission when it rendered a decision in favor of Robert Dawson et als as now found on page 114, of its record, numbered 108 (witness examines record referred to.) now in the possession of this Commission? A I was.
Q The members of that Commission were the same as shown by the signatures to this judgment were they? A The same, yes sir.
Q Thomas Tehee, President of the Commission; Alex Wolfe and T. F. Thompson, Commissioners, that is correct, is it? A That's correct.
Q Were you present when this case was under consideration by that Commission and when it rendered this judgment in the case? A I was.
Q Were you at that time acquainted with F. M. Dawson, commonly called "Bud" Dawson, Campbell Taylor and Samuel H. Benge, who were attorneys, who were Cherokee attorneys at that time? A I might say that I merely knew Mr. Dawson; all I knew of him was I saw him there as a party to the suit. I knew Mr. Tayler and Mr. Benge more extensively; I have known them a number of years.
Q They were recognized Cherokee citizens were they? A They were.
Q Was Tayler not known generally as a Citizenship Attorney? A I think he was.
Q Do you remember seeing him and Benge present at the time this case was under consideration by the Court? A Why I do not recollect seeing Mr. Benge, I cannot recollect, but I can recollect of seeing Mr. Tayler about the court room now and then.
Q Do you know who submitted the case to the Court for the applicants? A Let me understand the meaning of that; who brought the case?
Q Who called up the case? A No, I don't recollect.
Q Do you remember whether that Co mmission rendered any other decision than that found upon this record in that case? A I never had any knowledge only but one decision.
Q Was that in favor of or against the applicants? A It was in favor of them; I will say this: that if there was another decision other than the one that appears on the docket now before you, I have no recollection of it.
Q The only decision you have any knowledge of was recorded by you in this book as here shown was it not? A That is the only one that I have any knowledge of.
Q Did Bud Dawson pay you any money in connection with that case? A He did not.
Q Did he ever promise to pay you any money for your influence with the Court in that case? A Never.
Q Or paid you any money, either directly or through any other person? A For my influence in that case?
Q Yes sir. A Never.
Q Did you have any knowledge of his having paid to the Court or to any member of the Court any money for the purpose of influencing their judgment in that case? A None whatever.
Q Did you have opportunity of observing his conduct during that Court at the time? A The only opportunity that I had was during the session of the Commission; I saw but very little of him during the recesses of the Commission; now and then I would see him in passing.
Q Did you see anything in his conduct toward that Court which indicated that he had used any undue influence in procuring that judg-

ment? A I never observed anything of the kind; nothing that I would have given awakened a suspicion in my mind that he was engaged in that kind of paretice.
Q Did Campbell Taylor at any time after the rendition of that judgment pay to you any money as coming through him from Bud Dawson for any services which you had rendered to him in that case? A Yes, he paid me some.
Q What amount? A My recollection is that, I think it was a twenty dollar bill. I don't know but I had better go on and state the transaction, all about it.
Q Yes sir. A Mr. Dawson, Bud Dawson, during the trial of the case occasionally applied to me at my desk for writing paper, issue of a subpoena or transcript, something of that kind; I always treated him with courtesy and proper official consideration. He seemed to appreciate it, and whenever I did services of that kind to him, says he, I have no money, Mr. Duncan, but I feel as I ought to pay you. I told him I made no charges for work of that kind. And in passing I might state that I never received a cent for any kind of that work which I had been in the habit of doing for various parties before the Court.

After his trial wasconcluded, in the afternoon a little while before supper time I went to my hotel, The National Brick Hotel in Tahlequah; went to my room, felt a little tired, laid down upon the bed to rest. I recollect Mr. Dawson stepped into the room, drew a chair up to the bedside and sat down and commenced giving expression to his gratification at the success of his case, dwelling mostly upon the testimony in the case being so satisfactorily, establishing his Cherokee blood, and that he thought that he was entitled and that he had received justice by the Court. I listened to him , and we talked there I guess some ten or fifteen minutes; after a little he says, I must go to-morrow, I think he says to-morrow, I must go home,- he then lived down in Arkansas somewhere. Says he, Mr. Duncan, I believe I owe you something, ought to pay you something. Alluding, as I understood, to these little courtesies that I extended to him at my desk. Says I, I make no charges, Mr. Dawson, for services; if I have done you any good you are welcome. Well, says he, I feel indebted to you, I ought to pay you. I says, that makes no difference; I will leave that to you. Says he, I have hardly enough money to get back home. He shook my hand, and the last word he says to me, you shan't lose anything for your kindness to me; I thought he had reference to my services at the desk. That was the last I saw of Mr. Dawson, oh it must have been nearly a year afterwards; I had located a little claim on the public domain up there in Delaware District, staked off what I intended to be a farm, merely stakes, didn't make any other improvements, over there on Horse Creek. Went over in that part of the country to look after my claim, and I ran across Mr. Dawson, he had come into the country and located and built him a little shanty and was living in it; I called upon him, he was very glad to see me; I asked him what he was doing there; he said he had moved into the country, and I told him, says I, you are encroaching upon me here; he had spread his claim over part of mine, mine hadbeen made so long it was outlawed under Cherokee law. Well says Mr. Dawson, I don't feel like doing you any wrong, I will pay you for your claim, and we will settle the matter in that way, that he as soon as he got his little matters together that he would satisfy me for it. Well we parted at that point. It ran on then for a long time, I don't know how long,- I think I met him in Vinita, and says he, did Camp Taylor pay you any money that I sent to you? Says I, No, I have not seen Camp Taylor. Well, says he, I gave him some money and told him to hand it to you for me, and, says he, you ask him and he will hand it over to you I guess. Well we parted then. Well, went on for sometime, some months; I happened to meet Mr. Taylor in Tahlequah; I met him on the street I think, jocularly I slapped my hand on his shoulder, says I, look here, did Mr.

Dawson send any money to me by you? He says, yes, and he pulled out what I recollect to be a twenty dollar bill, and handed it to me; I received it, and I received it with the idea that he was compensating me for taking my claim, or possibly for doing him those little services in the Court. Now that is the gum and substance of the whole thing.
Q Was not that twenty-five dollars, Mr. Duncan?A It might possibly havebeen, my recollection does not serve me exactly, it might have been 25 dollars.
Q Did Campbell Tayler pay you any other money as coming from Bud Dawson? A Never a cent.
Q Did he at one time pay you fifty dollars out of a hundred dollars which he had received from Mr. Dawson? A Never.
Q Did he on a second occasion pay you fifty dollars out of one hundred dollars which he claimed to have received from Mr. Dawson? A None at all.
Q He paid you no other money than that you have already stated, from Mr. Dawson? A Not a cent.

BY MR. McKENNON: We now offer in evidence the judgment of the Cherokee Citizenship Commission before referred to, and ask that it be filed in evidence in the case of every application made by members of the Robert Dawson family who claim under it, or through Robert Dawson, as citizens of the Cherokee Nation, said judgment being found on page 114, Records of the Tahee Court, 1880 to 1884, case number 108, judgment dated January 11th,1883, signed by Thomas Tahee, President, Alex Wolfe, T. F. Thompson, Commissioners. D.W.C.Duncan, Clerk Commission.

Said judgment just introduced is as follows:

"Office Commission on Citizenship,
Tahlequah, C. N., September 24th,1881.
No.108
Robt Dawson,
Elbert Dawson,
Jasper Dawson,
John Dawson,
Josephine Dawson,
Joseph Dawson, Petition for Citizenship.
Jane Dawson,
Molly Dawson,
Wilbron Dawson,
James Dawson,
Rial Dawson,
vs.
Cherokee Nation.

Continued by the Plaintiff, Oct. 5 , 1881.

January 13th,1882.
The above case continued by the Cherokee Nation till Sept. term. Agreed by the parties that the above case shall not be taken up for final disposition before the 4th day of Oct.1882,
October 4th,1882.
It is agreed by the parties that this shall be finally disposed of at the next January term if the Claimant is present demanding the same, if not, the same shall be then continued to the September term, 1883.
On this agreement commission continues the case till the next January term to-wit January 1883.
And now this the 11th day of January A.D. 1883 this case coming on for final hearing, and all the evidence producedin the

case being carefully read and duly considered by the Commission it was adjudged and determined by the Commission on Citizenship that the Claimants, Robert Dawson, F. M. Dawson, Albert Dawson, Jasper Dawson, John Dawson, Josephine Dawson, Joseph Dawson, Jane Dawson, Molly Dawson, Wilbron Dawson, James Dawson, and Hial Dawson, are Cherokees by blood; and that they are entitled to all the rights and privileges of Cherokee citizenship within the Cherokee Nation and that they should be, and they are, hereby admitted to the full and complete enjoyment of the same in all respects as native born Cherokees.

(signed) Thos. Tehee,
President of Com.

D.W.C.Duncan,
Clerk of Commission.

Alex Wolfe,)Commission,
T. F. Thompson,) ers.

Transcript issued to claimants, January 11th, 1883,
(signed) D.W.C.Duncan, Clerk. "

Marginal Note: "Case submitted by Claimant January 11th 1883. Case submitted by Solicitor January 11th,1883."

Q Do you remember how many members of the Court were present when this judgment was rendered, or were all of them? A My recollection upon that point is not positive, but making my statement upon what I knew to be the practice of the Court at the time, seeing the names of all these Commissioners there, I can say with a great deal of positiveness that they were all present, because I never signed the name of one of the Commissioners unless he was present, assenting to it or directing it.
Q The rendition of that judgment then was concurred in by all of the three judges? A It was.
Q Mr. Duncan, if there had been a decision rendered the day before in this case while the Court was in session, adverse to these claimants, would you not have known it? A I certainly shouldhave known it.
Q Was there any such decision of the Court? A None to my knowledge. I can say positively there was not.
Q How many of those judges are now living? A Only one.
Q Whom? A Mr. Thompson.
Q Tehee, and Wolfe are dead? A Tehee and Wolfe are dead.
Q How long have they been dead, do you know? A I do not know, quite a number of years. I wasn't living there, never lived near them when their death occurred, and their death occurred a long time perhaps before I got knowledge of it. It is generally understood that they are dead.
Q Do you remember to have seen any other member of the Dawson family about the Court at that time than Bud Dawson? A I have been thinking, and I can't call to mind that I ever saw any other Dawson except Bud, until after they moved into the country subsequent to the rendition of the judgment.

(At this point aparty who has been sitting in the room in which this examination is being held, is called forward, sworn on behalf of applicants, and asked to retire until called.)

BY MR. HUTCHINGS:
Q Mr. Duncan, when did you become Clerk of the Tehee Commission Court? A It must have been somewhere about December,1884, at the time the Commission was organized immediately at the close of the Council in which they were appointed.
Q December 1884? A I think so.
Q What are you doing rendering judgments here in your handwriting in 1883? A The Commission of course held its court after they were

elected sometime.
Q The court was elected in 1881 wasn't it? A Well I mean the time,- I don't pretend to say when the Court was elected, I might have said at the time I was chosen clerk. I was chosen clerk just at the close of the session of the National Council of that year.
Q '84? A I think it was '84.
Q You entered up this judgment rendered January 11th,1883? A Yes, that was the session of the Commission.
Q That was before you were Clerk of it? A Well I held my clerkship for sometime you know continuously.
Q Well but then You mean to say that you were their clerk when the Dawson case was passed on? A No, I don't mean to say that.
Q How could you be clerk when the Dawson case was passed on in 1883 when you were not elected until 1884? A I am mistaken in that, '84 come s after '83,- it was the year preceding 1883, it must have been '82.
Q Your first entry in the Dawson case is January 13,1882, isn't it?
Q I don't recollect what my first entry was. (Attorneys show the record to witness) Yes, that is the entry there on that day,
Q And that was shortly after you became clerk wasn't it? A Yes, shortly after I became clerk.
Q The case had been entered on the docket before you were made clerk? A I think so, yes; it was entered at the previous term of the session of the Commission.
Q In whose handwriting were the names of the three Commissioners signed to that judgment? A Dawson Judgment?
(Attorney shows record to witness again) A That is in my handwriting.
Q All three names? A All three names.
Q The record there shows that you immediately gave them that day a transcript of the judgment, do you know who signed that? A Signed the transcript?
Q Yes sir. A I do not recollect now, that is, did the writing?
Q Signed the names to it? A Yes, that's it.
Q You always signed the names of Tehee and Wolfe didn't you? A I think I did pretty generally; I don't know of their attempting to write their own names.
Q When Mr. Thompson was there didn't he sign his own name? A Sometimes he did, sometimes he simply authorized me to do it.
Q Have you any recollection of his authorising you to do it except from the fact that you have done it on that record frequently? A I can't recall the particular literal fact of authorization, but I can say positively that, consulting the record, that he authorized me to put his name there.
Q Will you look at the original transcript hereby shown you and referred to in the judgment and say who signed the names of the Commissioners there? A (Papers shown to witness) A I signed them there.
Q You recognize that as your handwriting? A ~~Yes~~ I do.
Q What made you when you were testifying at Vinita before Mr. Martin, on looking at the same signatures, and being cross-examined by me, say that it was not your signature and that the signature thereto attached was the signature of Mr. Thompson? A Occurred in this way: I had not seen any of the records in the case for about nineteen years. The exact transaction in the court had vanished almost entirely from my memory; I recollected at that time, however, when I gave in my testimony before the Commissioner, Martin, that that was a practice of the court at the time I served by which I signed the names of the full-blood members of the Commission, and Mr. Thompson either uniformly or occasionally signed his own name. I based my statement in that deposition upon my knowledge of the rule or practice in the court, without comparing the docket and refreshing my memory. I made an incorrect statement when I said that that was not my handwriting; I am convinced now that it is my handwriting. That is the way it occurred, the way it happened.

Q Then you consider your recollection of the fact that Thompson when he was present and rendering a judgment signed it himself, better than your own knowledge of your own handwriting? A No, I didn't so regardit. I simply spoke without advisement when I gave in that testimony; I subsequently became better informed and concluded that that was my handwriting and not entered by Mr. Thompson under the rule, but was one of those cases in which he authorized me to do it myself, and I did it.
Q Then you have changed your testimony, because you think you have a better knowledge of the surrounding facts now than youhad then, and not from the fact of your judgment on your handwriting at present? A I simply corrected my testimony in reference to my statement in regard to this handwriting, this case.
Q And you wouldn't know then as I understand you whether or not that is your handwriting if it was not refreshed by what you consider to be exterior facts? A I should know it by examining it and thinking over the circumstances, I think I should recognize my own handwriting, but if a question should be propounded instantaneously without any advisement or preconsideration I might make a mistake.
Q You did recognize the names of Thomas Tehee and Alexander Wolfe as being in your handwriting at that time? A I was very clear and positive, and so stated, that the names of those Commissioners were in my handwriting, and I was made certain by reflecting on the rule that they never signed their names with their own hand, but always authorized me to do it. Hence there is no question in my mind in regard to my handwriting in their signatures.
Q And then the third name, wight under it, as compared with your admitted handwriting, you had to wait and learn the facts afterwards to determine whether that was your signature or not? A No, I don't think that if I had considered the circumstances, I knew that there was a resemblance; what made me of the opinion that that might have been Mr. Thompson's signature was like this? I knew that he had been in the habit of at least sometimes signing his own name, and I was under the impression-and I do not now think I am much deceived- that his chirography bore at least some resemblance to my own, hence I doubted whether I had signed that name or not on thataccount.
Q You were aided somewhat at that time in your testimony by the fact that Mr. Thompson also swore that that was his handwriting and not yours, didn't he? A Mr. Thompson in stating that that was my handwriting set my mind to work to ascertain whether I was not mistaken or not, and after so long a time I concluded that I was.
Q And he stated, and you too didn't you, that he always signed the original himself when he was present? A I do not recollect that I stated, that I used the word "always", at that time, but at the time I was examined when that deposition was taken my impression was that he did, but when I come to reflect and examined the docket I was convinced that I was wrong, that occasionally I signed for him.
Q Then you never found out that your testimony given something like a year and a half ago was wrong until you examined the docket day before yesterday, and compared yours and Thompson's signatures? A I don't know that I have thought of it since that time until yesterday or day before to examine the docket.
Q Now the only recollection that you have got and the only aid to your recollection that Thompson was present when this judgment was rendered was the fact that you see his name signed to it, in your handwriting, is it? A As a fact,-
Q You can answer that yes or no? A That seeing the handwriting aids my recollection and I recollect now that the commissioners were all present at the time that I signed it. I didn't sign their names out of court at all.

Q Was it in the forenoon now or in the afternoon? A I don't recollect whether it was in the forenoon or afternoon.
Q In recollecting that they were all present when the record was signed, do you mean to say that they were all present when the judgment was rendered? A Yes, that is, you mean when the question of admission or rejection was voted upon? A
Q Yes. A They were present.
Q Did you make up the record at the same time that they rendered the judgment, or make a memorandum of it, and then write up the judgment some days afterward? A The record was not written up immediately upon the decision of any case, but I wrote up the record after adjournment, generally in the evening, and presented it next dayrwhen the next session was had, for signature; that was the practice.
Q But in this Dawson case you wrote it up the very day that it was rendered didn't you? A I didn't recollect as to that.
Q And gave them a transcript the very day it was rendered? A I don't recollect as to that.
Q And indicated the giving of the transcript on the bottom of the judgment the day it was rendered? A I should say it was given at the date of the transcript.
Q That was a very unusual thing for you to do in entering up judgments? A To do what?
Q To note on the bottom that you had given a transcript the same day the judgment was rendered? A No, I don't know that there is anything unusual in about that.
Q Any other places in that record or more than one in any event that you have ever done that? A I don't recollect, indeed I don't recollect of giving anybody else a transcript.
Q That is what I am getting at: you gave them a transcript and wrote up your judgment and everything right away? A Pretty promptly after the decision; whether it was on the same day or the evening, and signed next day, I don't recollect.

IT NOW BEING THE HOUR OF NOON, 12 m., THE COMMISSION ADJOURNS UNTIL HALF PAST ONE p.m.

AFTERNOON, TIME- 1:45, p.m.,- APPEARANCES,- same as in forenoon: D.W.C.DUNCAN again on the stand.
BY MR. HUTCHINS:
Q Do you remember what witnesses were before the court? A I don't recollect now distinctly except Dr. Baker, I remember him mainly because of the length of his testimony and the time it took to take it.
Q The Doctor was about the only distinct witness there was? A He is the only onenow that I can call to mind. Thxxx x
Q There was probably another old darkey that testified was not there? A I have no recollection to that effect.
Q The case was just decided really on Doctor Baker's testimony, he is about the only man that knew anything about the case? A I am not certain that Dr. Baker was the only witness; might have been others that has now escaped my recollection.
Q Doctor Baker's testimony was taken down in writing? A Yes.
Q There was not anybodys else taken down in writing was there? A All the testimony that was accepted in the case was taken down in writing.
Q Did you ever see anybody's else testimony in writing except Dr. Baker in that case? A That is not as I recollect, I can't recollect any other but Dr. Baker's.
Q You know whether that was taken immediately before the trial or at the trial or how was it? A It was taken in the presence of the three Commissioners during the session of the court.
Q You mean the day that the case was decided or how? A I do not recollect whether that case was on trial more than one day, but my

impression is that it was.
Q You know whether it was the same term of the court or not?
A I think it was the same term of the court.
Q How many terms a year did that court have, when and how did they last? A I don't recollect of but serving but one term.
Q Don't recollect the serving but one term? A Myself, it seems to me so.
Q You didn't go in until January of 1882 did you; your first record there is a record of about the 13th of January 1882, as shown by the Book, isn't it? A I don't recollect in that regard.
Q Now would they take testimony in the case, then continue it, or how would they generally do about that? A I think they decided on the case at the term in which they took testimony.
Q Can you say whether or not this testimony was taken in this case at the time it was decided or at the same term it was decided, or within a week or two of the time it was decided? A My best recollection is that it was taken at the term in which it was decided; case was taken up, testimony heard and the decision was made at the conclusion o f the testimony.
Q Well now, I see on October 4th,1882, in your handwriting, the following entry reads: "It is agreed by the parties that this shall finally be disposed of at the next January Term," That would be January,1883, "if the claimant is present demanding the same, if not, the case shall then be continued to the September term, 1883; on this agreement the Commission continues the case till the next January term, 1883." By that I should take it you had a January and a September term; and this decision was rendered at the January, 1883 term. Was Baker's testimony taken during the January, 1883, term, at the time this decision was rendered? A I find it impossible for me to recollect those facts that are recorded there; although I can say about that, that that record shows the correct statement of the facts; but I can't recall those facts.
Q Well there is a record here that this case was continued on the 13th day of January,1882, upon agreement that it should be taken up on the 4th day of October,1882; your record shows that there was nothing done in the case from January 13th,1882 until October 4th, 1882; would you say that was correct? A I should say it was correct if it so stands on the book; it is designed to be a correct entry of the facts.
Q I will let you see the book for yourself; I don't want to misrepresent your end of it at all. (Shows entry in book to witness.)
A I can't recall those facts in regard to the agreement.
Q Who took down the testimony of the witnesses in court? A I took it down.
Q You took down the testimony of Dr. Baker? A Yes.
Q He was cross examined by counsel for the Nation? A As to that I don't recollect. He was present, he was always present; I think likely he was cross examined.
Q And that testimony was taken at or near the time when the judgment was rendered in January, 1883? A I think it was, my impression is to that effect.
Q Well the court seems to have had no session as to this case from January 13,1882 up to October 4th, 1882, according to the record? A (No response.)
Q You don't recall taking down anybody's else testimony in the case? A No sir, I don't.
Q And the probability is that he was the only witness examined isn't he? A It might have been so. My recollection is that he was regarded as the main witness of the case.
Q He was quite an old man, about 73 at that time? A Yes, he was quite old.

BY MR. McKENNON:

Q The testimony of Dr. Arthur Baker, from this record, appears to have been taken January 19th,1882; is that correct so far as you may know, or are able to state? Is that Dr. Baker's testimony?

(Attorney here shows witness papers) A It appears to be, yes; I don't think that was the testimony that the case was decided upon, because his testimony was taken orally before the Commission, and I wrote it down; please let me see it. (Attorney hands said paper to witness.)
A Well, all I know about this is as I stated before, I can't recall those facts, but whatever the record says why I say that the record was made correct, according to the fact. (Witness takes copy of the testimony referred to to refresh his memory.) I don't succeed in reading that very clearly to my own understanding, but I gath er from the subject matter in that testimony that it is in accord with Doctor Baker's statement; in exactly word for word I am not able to say, but that is the tenor of the testimony.

BY MR. HUTCHINGS:
Q In taking the testimony you endeavored to get down all the material facts that you could in taking it in long hand? A Yes, very nearly word for word, as I could make it, sometimes there was a little variation made necessary by the length of the witness' statement.

BY MR. McKENNON: Applicants object to all of the witness' testimony relating to the method of taking the testimony of witnesses at the trial , the character and effect of that testimony, and the number of witnesses, except so far as the same may be used for the purpose of ~~testing~~ testing the memory of the witness, because the same is incompetent, irrelevant and immaterial.

B. F. FORTNER, being first duly sworn, and being examined testified as follows:
BY MR. McKENNON:
Q Whatis your name? A B. F. Fortner.
Q Whatis your age? A 54.
Q You are a physician are you not? A I am.
Q Where do you reside? A Vinita, Indian Territory.
Q Do you hold any official position in your profession? A Yes, I am President of the National Board of Health, Cherokee National Board of Health, andmember of the Legislative Commisses of the Indian Territory and of the American Medical Association,- those are some , and the most important positions I hold at this time.
Q Are you a Cherokee citizen? A I am.
Q By blood or intermarriage? A Intermarriage.
Q Your wife is a citizen? A Yes sir.
Q Do you know D.W.C.Duncan? A I do.
Q How long have you known him? A About 12 or 15 years, about 12 years I should say.
Q Do you know his general reputation in the community where he resides for ~~xxxx~~ honesty and uprightness of character? A I do, I think.
Q Is that good or bad? A It is good.
Q Do you know Campbell Taylor? A I do.
Q How long have you known him? A Oh six or eight years, don't know exactly how long; known of him for ten years and personally I have known him about say six or eight years.
Q Do you know his general reputation for truth and veracity? A I do.
Q Is that good or bad? A It is bad.
BY MR. HASTINGS:
Q Mr. Duncan belongs to the same church you belong to? A Yes sir.
Q And has for a number of years? A Well now I say I think he does; I have always so understood.
Q Don't keep up with all your members? A No, but he had attended church there and my impression has been that he is a member of the

church.
Q You didn't have any business before the Citizenship Court of which he was Clerk, did you? A No sir, not that I knew of.
Q You was not at Tahlequah while he was clerk of a Court from 1882 to '3? A I don't believe I was.
Q Never had any business before that Court? A Had no business before them, not while he was clerk to my knowledge.
BY MR. McKENNON:
Q You spoke of his membership in the church; he is in good standing as a member of the church is he? A Yes sir.
Q I will ask you if Campbell Taylor's reputation isn't noteriously bad? A Yes, I have so understood it.
BY MR. HASTINGS:
Q I will ask you if it was noteriously bad in 1883, when these people employed him to represent them before the Court? A That was before my knowledge of him.
Q But so far as you knew his bad reputation dates back so far as you knew him? A So far as I know him.

G. W. MILLER, being first duly sworn and being examined, testified as follows:
BY MR. McKENNON:
Q What is your name? A G. W. Miller.
Q What is your age, Mr. Miller? A 61.
Q Where do you reside? A Vinita.
Q How long have you lived there? A Well I have lived there altogether about 13 years I guess, or 14.
Q Are you a citizen of the Cherokee Nation? A No sir,
Q What is your business? A Real estate and insurance agent.
Q Do you know D.W.C. Duncan? A Yes sir.
Q How long have you known him? A I have known him twenty years.
Q Do you know his general reputation for honesty and uprightness of character where he lives? A Why yes sir.
Q Is that good or bad? A It is good, so far as I know.
Q Do you know Campbell Taylor? A Yes sir.
Q How long have you known him? A Well I have known him 18 or 20 years, I guess.
Q Do you know his general reputation for truth and honesty? A Well yes.
Q Is that good or bad? A Well, it is bad, I think.

ATTORNEYS FOR CHEROKEE NATION waive cross examination.

W. H. CURTIS, being first duly sworn and being examined testified as follows:
BY MR. McKENNON:
Q What is your name? A W. H. Curtis.
Q How old are you, Mr. Curtis? A 56.
Q Where do you reside? A Afton, Indian Territory.
Q How long have you lived in the Indian Territory? A 20 years.
Q What is your business? A Lumber business.
Q Do you know D.W.C. Duncan, A I do.
Q How long have you known him? A About 20 years.
Q You know his general reputation for honesty and uprightness of character in the community where he lives? A I do.
Q Is that good or bad? A As good as any man's.
Q Do you know Campbell Taylor? A I do.
Q How long have you known him? A Some 20 years, I suppose.
Q Do you know his general reputation for truth and integrity and honesty? A Yes sir.
Q Is that good or bad? A Bad.
Q Is it noteriously bad? A Yes.
Q Did you ever known Dr. Baker, Dr.A.B.Baker, of Berryville, Arkansas? A Yes sir, I knew him in '68 and '69.

Q Where? A Over at Berryville; I ran a saw mill in that country at Berryville.
Q Did you know his general reputation so far as honesty and uprightness of character and truthfullness? A Yes sir.
Q Is that good or bad? A Good, sir. Good as any man's; he is a good Christian gentleman.
Q Did you know him well enough to know his habits of life? A Yes sir.
Q Was he in the habit of taking liquor, drinking liquor? A Not that I know, of sir, I never saw him take a drink in my life.
Q Was his character such as to preclude any such charge against him? A It was, yes sir.
BY MR. HUTCHINGS:
Q How long did you know Dr. Baker? A Two years.
Q What does he do there? A He was an old gentleman then, he lived right in the edge of Berryville, Dr. Baker.
Q How old do you think he was then? A I think he muct have been 65 or 70 yearsold; an old gentleman.
Q That was in 18 what, 60? A No sir, it was in '68 and '69, the two years that I lived over there.
Q He had retired from business? A Yes sir.
Q Did he have any family? A Yes sir.
Q What family did he have? A I don't know how much family he had, I was well ac quainted with the old gentleman.
Q He wasn't doing any business with anybody? A No sir.
Q And his character was never called in question one way or the other was it? A No sir, no sir.
Q Campbell Taylor was a notorious rascal pretty much ever since you ever knew him wasn't he? A Yes sir, I never knew much good of him.
Q And whenever a man got a bad citizenship case he got Campbell to work it, because he was noteriously a rascal; that's it aint it? A Well a great many of them get him.
Q It was a notorious thing that they had a bad case they would get him, it would sort of give a case a bad odor to have Campbell around it? A Yes, that would be right.
Q You never knew anything about Mr. Duncan's connection with citizenship matters? A No sir, never did.
Q You never heard about his changing some of the records of citizenship cases? A No sir, never did.
Q You have heard lots of talk about this Dawson case? A Yes sir.
Q Rumor had it all around that there was somebody doing something wrong? A Yes sir.
Q You never accused him of it you think? A I never heard him accused of it, no sir.
Q That rumor got out from the first day they were admitted right up to the present? A Well I don't know not from the first day, I have heard it for a good while though.
Q But you never knew who they fixed it on? A No sir.
Q They have been a pretty strong family up there in that country haven't they, pretty large family? A Yes sir.
Q Cast a good many votes up there? A Yes sir.
Q Did you ever know of the Doctor's testifying any in court, Dr. Baker? A No sir, I never did.
Q What would you think of a man who would testify that he knew a girl that was single in 1825 when the youngest of her seven children was born in 1823; what would you think , would you think that was a statement to be made by a man who was truthful? A -
BY MR. McKENNON: Applicants object to the question because it is wholly incompetent, and not based upon any proof or admitted facts in the case, and it is wholly immaterial and incompetent.

Do you think that was a statement that would be made by a truthful man? A (No response.)
Q You knew him in '68? A Yes sir.
Q He was quite an old, decrepit man? A Yes sir, quite old, '68 and '69.
Q 14 years from that time he was liable to be in his dotage?
A I don't know, he was an old man when I knew him.
Q He was too old to work, and retired from business then? A Well he did work a good deal, but wasn't doing any business particular that I knew of.
Q He would have beenpretty old 14 years from that time? A Yes, he would be getting old.

D. M. MARRS, being first duly sworn and being examined, testified as follows:
BY MR. McKENNON:
Q What is your name? A D. M. Marrs.
Q What is your age, Mr. Marrs? A I am 44
Q What is your business? A I am publishing a newspaper.
Q What paper? A "The Indian Chieftan."
Q Are you Editor of that paper? A Yes sir.
Q You live at Vinita then? A Yes sir.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood or intermarriage? A Intermarriage.
Q Do you know D.W.C.Duncan? A I do.
Q How long have you known him? A 18 or 19 years.
Q Do you know his general reputation in the community where he lives for honesty and uprightness of character? A Yes sir.
Q Is that good or bad? A Good.
Q Do you know Campbell Tayler? A Yes sir.
Q How long have you known him? A Why 15 years or longer.
Q Do you know his general reputation for truth and honesty in the community? A His general reputation, yes sir.
Q Is it good or bad? A Well it is not good.
Q Is it bad? A Well I suppose it must be bad then.
BY MR. HUTCHINGS:
Q How long has Campbell's reputation been bad, Mr. Marrs, quite a good while, hasn't it? A Why I think so, yes sir.
Q And it kind of begun mostly with this citizenship business?
A Yes, so far as I know it did, yes sir.
Q Campbell get so many bad citizenship cases and through the mails, and they finally had him up about it, had a good deal of stir about it? A Yes sir.
Q And some of that stir was sort of occasioned by his helping the Dawsons in wasn't it? A I don't know, I don't know whether he helped the Dawsons.
Q Was not that one of the principal cases that brought him into notoriety? A I don't know whether he had that case or not. I know he had a great many cases.
Q That was the principal thing that commenced to find Campbell out, was citizenship cases here? A I think that is what got him into the most trouble.
Q I say beforethat time nobody had talked much about Campbell one way or another, and it became pretty ~~xxxx~~ general that Campbell was handling sheddy citizenship cases, and he got a bad reputation from that? A Yes sir, I think that was the impression generally.
Q Now Mr. Duncan's connection with the Dawson case sort of been kept back; people never talked much about it? A I never heard anything about it, as I know of.
Q You have heard that there has been something wrong about the Dawson case, that has been a notorious thing? A Oh it has been a notorious case, yes sir.
Q Well the fact of Mr. Duncan's reputation for straightness has been somewhat given by himself, he confesses it frequently? A How is that?

Q His reputation for straightness is somewhat given by himself; he takes occasion to confess that very often himself, doesn't he?
A I don't know whether I am qualified to answer that.
Q Speaking of his own honesty, he does that very frequently?
A No sir, not that I know of.
Q Doesn't he write a good deal about that sort of thing? A About his reputation?
Q Why in speaking of his own integrity? A I don't remember that he does.
Q You were not about the citizenship courts along in 1881 '2 and '3 were you? A No sir.
Q Don't remember about the talk that was going on around the Capitol over there about the citizenship cases? A Why no, don't remember anything special as I know of. I remember the citizenship court going on at different times.
Q How far were you living from Tahlequah in '83? A Well, I lived close to Vinita, I guess it is sixty miles probably.
Q Have you lived any nearer Tahlequah since that time? A No sir, never have.

M. L. BUTLER, being first duly sworn and being examined testified as follows:
BY MR. McKENNON:
Q What is your name? A M. L. Butler.
Q You are a Minister of the Gospel? A Yes sir.
Q M. E. Church, South? A Yes sir.
Q How long have you been in the ministry? A I have been in the ministry 22 years, sir.
Q Did you ever live at Vinita? A Yes sir.
Q How long? A I was there four years, sir.
Q Do you know D.W.C. Duncan? A I do.
Q How long have you known him? A I have known Mr. Duncan 21 years.
Q Do you know his general reputation for honesty and uprightness of character? A I do.
Q Is that good or bad?A Good, so far as I know.
Q You have had opportunity of knowing? A Yes sir.
BY MR. HUTCHINGS:
Q Mr. Duncan, was a member of your church? A Yes sir.
Q That is the principal way you had of coming in contact with him?
A Yes sir, he was a member of my official board.
Q His connection with citizenship cases that were decided by the court of which he was clerk was never brought up in your presence anywhere? A No sir.
Q Or never discussed? A No sir, I knew nothing about his connection with it.
Q You didn't live about or near Tahlequah in '83? A Yes sir, I was Pastor of the Methodist Church in '83 at Tahlequah.
Q Did youhear about the Dawson case, and other cases admitted over there by the Citizenship Court? A No sir, I know nothing about the cases; I remember when the Commission was in session, and remember that he was clerk of the Commission, but knew nothing about the cases that were decided at all.
Q Never heard anybody discuss the cases that were decided? A No sir.

THOMAS A. CHANDLER, being first duly sworn and being examined, testified as follows:
BY MR. McKENNON:
Q Whatis your name? A Thomas A. Chandler.
Q What is your age, Mr. Chandler? A I am 30.
Q What is your business? A Deputy Clerk of the United States Court, at Vinita.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know D.W.C. Duncan? A Yes sir.

Q How long have you known him? A LEt me see, I have known him about nine or ten years.
Q You know his general reputation for honesty and uprightness of character in the community where he lives? A Yes sir.
Q Is it good or bad? A Good so far as I know.
Q Do you know Campbell Tayler? A Yes sir.
Q How long have you known him? A I think about 15 years.
Q Do youknow his general reputation for truth and honesty? A Yes sir.
Q Is it good or bad? A Bad, so far as I know.
BY MR. HUTCHINGS:
Q How did Campbell get a bad reputation? A Well sir, I don't know how he did.
Q You never knew him until 1885? A Well I never knew him personally, I heardof him before that.
Q He had a reputation before '85? A Yes sir.
Q Bad reputation way back yonder? A First I remember I ever heard of him I heard people speaking bad of him, when I was a kid.
Q And everybody that came around the Nation and knew anything at all knew Campbell had a bad reputation? A Yes sir, ever so far back as '79 or '80, that is as far back as I can remember; I think I heard it spoken of in '80, I think that's about the time.
Q And Campbell got a very bad reputation in '80 and '81 when we begun to have these citizenship cases? A Yes sir.
Q You heard him spoken of in rascality and using the mailes for these business? A Yes sir, I heard of him being in the Fort Smith Jail on that account.
Q Citizens of the Nation talked a good deal about Campbell's being in these bad citizenship cases? A Yes sir.
And I also heard he had a bad reputation for paying his debts, along about the same time.
Q You don't know whether he had the money, he might not have had the money to pay his debts? A No sir.
Q He could have kept out of bad citizenship cases? A Yes sir, I suppose he could.
Q You never heardMr. Duncan's name mentioned before in connection with the Dawson case, citizenship cases? A No sir, I don't think I have; I may have, but I don't remember hearing it.
Q General impression that somebody had done something wrong with that matter, citizenship cases? A I heard there was something wrong in connection with the Dawson citizenship cases.
Q That has always been in notoriety ever since they were admitted? A Yes sir, I have heard it rumored around over the country that such was the case.
Q They had a pretty large voting capacity up there and the matter was never investigated? A I don't know about that, I don't think it was ever investigated, I never heard of it.
Q So they never made any endeavor to find out who the man was? A No sir.
Q Where did you live in '83? A In '83 I lived out on Duck Creek about 12 miles south-east of Vinita.
Q How far from Tahlequah was that? A About 65 or 70 miles, I suppose.
Q You never were around before the citizenship courts any during that time? A No sir.
Q You don't know then whether or not Campbell had most of the bad cases or not down there?A No sir, I do not, at that time.
BY MR. McKENNONApplicants object to all of the testimony of this witness as to what he heard by wayof rumor, about the character of the Dawson case, because the same is hearsay, immaterial , irrelevant and incompetent.

A.S.McKENNON, of Counsel for Applicants, being first duly sworn, makes the following statement:

I became a resident of Carroll County, Arkansas, early in 1856. I was intimately acquainted with Doctor Arthur Baker, for many years. Knew him as well as I did anyone else. He was a gentleman of the highest Christian character, so recognized by everybody who knew him. He was a sober man, and never drank liquor. I make this statement more in vindication of that good man's memory than for any other reason, because any imputation against his character is false.

BY MR. HASTINGS:

Q How long did you know him? A I resided in Carroll County until 1867 when I removed to Johnson County, Arkansas; during the war I was away from home, but I knew him intimately every year that I resided in Carroll County.

Q Did you know him since '67? A Yes sir, I have seen him several times. I have relatives living in the town in which he lived; my relations to him were such as to cause me always to inquire about Doctor Baker; I knew his reputation I think as well as after I left there as I did when I lived there.

Q Did you know those facts in 1896 when you were a member of this Commission? A Yes sir, I have known them all my life as I know them now.

Q Did you know them when you as a member of this Commission passed on the Irene J. House case? A I knew it every day of my life, in 1896 as well as now.

Q Suppose that Dr. Arthur Baker's statement should appear that he was born in the year 1809, and suppose he said when he was 15 or 16 years of age that Anna Pruett the wife of Samuel Dawson, was a grown up girl going to school, when the other undisputed evidence shows that she had married Sam Dawson prior to that time and had seven children, the youngest of whom was born in '23, how would you harmonize that with a man who was an honest man and knew the facts in the case? A Whatever Dr. Baker stated he honestly believed, whether it was right or wrong; whether it was error or truth, he honestly believed it, and stated it as he believed it.

Q He was capable of being in error? A Every man is.

Q I say he was? A Yes sir, just as you and I and every man, he was; I merely stated as to his high character, which could be proven, by every man who knows him I think, I knew it.

Q The Commission rejected Irene J. House in 1896, of which you were a member? A I don't remember anything about that personally.

TESTIMONY ON BEHALF OF CHEROKEE NATION.

DAVID MEREDITH, being first duly sworn, and being examined testified as follows:

BY MR. HUTCHINGS:

Q State your name? A David Meredith.

Q Where do you reside? A Vinita.

Q How old are you? A 60 years old.

Q Did you ever know James Dawson? A Yes sir.

Q How long have you known him? A I knew him probably 2 years.

Q Did you ever have any talk with him about his citizenship case? A Very little.

Q You were at one time an applicant before the Dawes Commission for citizenship were you not? A Yes sir.

Q Well what did Mr. Dawson tell you with reference to his citizenship, as to the cost of his getting it, if anything? A Well he told me it cost him eleven or twelve hundred dollars to get his case through.

Q Where did that conversation take place? A At Afton.

Q At what time? A It was in '88, spring of '88.

BY MR. McKENNON:

Q Where were you when he told you that? A I was working on a house in Afton, building a house.
Q Whose house? A S. S. Haines.
Q Who else was present? A Haines was present.
Q Where is he? A At Afton.
Q What aged man was Mr. Dawson at that time? A I don't know, he was very old, probably 75 years old.
Q Was he not a very feeble man? A Yes sir.
Q Hardly able to get around was he? A No sir.
Q Was he not then regarded as feeble minded old man? A I don't know whether he was so regarded or not.
Q You don't know what he had to do with the case, in fact, himself, do tyou? A No, I judged it was himself and family that cost that much to get through; attorneys' fees, etc. That is the way I took it anyway.
Q You were an applicant yourself were you not? A Yes sir.
Q When? A At that time.
Q Before the Cherokee authorities? A Yes sir.
Q They rejected you? A Yes sir.
Q You were an applicant then before the Dawes Commission were you? A Yes sir, been rejected ever since.
Q Are you still an applicant? A Yes sir.
Q Still trying to get in? A Yes sir.
Q Claiming by blood? A Yes sir.
Q How long have you been living in the Cherokee Nation? A 15 years.
Q Where did you come from? A Indiana.
Q Claiming to be a Cherokee citizen? A Yes sir.
Q Indian? A Yes sir.
Q James Dawson is dead is he? A Yes sir.
Q How long has he been dead? A I think he died probably within two years after that.

TESTIMONY TAKEN ON BEHALF OF THE APPLICANTS.

F. M. DAWSON, being re-called and further examined, testified as follows:
BY MR. McKENNON:
Q F. M. Dawson? A Yes sir.
Q Mr. Dawson, what member of your family came to the Cherokee Nation to file and prosecute the claim of your father, Robert Dawson, and the members of his family, to Cherokee citizenship? A My brother from Texas met me at Tahlequah.
Q Tell his name? A Elbert Dawson, they all know him by Buck.
Q When was that? A In '81 as well as I remember, or '82, I don't know which, it was '81 or '82.
Q Did you file your claim at that time? A My brother was, yes, the application,- my brother had Joel Mayes to make it out and file it. That is my understanding.
Q Joel Mayes, who afterwards was Chief of the Cherokee Nation? A Yes sir.
Q Before what court was that filed? A My understanding was he was clerk of the court; Hastings can tell me what court he was clerk of.
Q He was clerk of the court at that time? A Yes sir, of the citizenship court; that's my understanding.
Q What was done about the case at that time, if you remember? A I went back home and left my brother down there at that time, that trip.
Q Where did you then live? A I lived at Berryville, Arkansas.
Q When did you next come to the Cherokee Nation? A I believe I come back the next January, that was in September.
Q Was your brother Buck here then? A I don't think he was, I don't remember.
Q Well had he at any term of the court or session of the Commission at any time after you first came here and filed the application

until after it was decided? A No sir, I never met him any more until that case was decided.
Q You conducted the business then after that did you not? A Yes sir.
Q The case was finally determined in January 1883? A '83, yes sir, the 11th day as I remember.
Q Were you present at that session? A Yes sir.
Q Was there any decision of that case other than the one of record here? A I never heard of it if there was.
Q Was the judgment rendered in that case as recorded in the record Book of that Commission now in the custody of the Dawes Commission the only judgment that was rendered in that case so far as you know? A Yes sir, so far as I know, if there was any I never heard of it in that case.
Q You then know of no decision against you in the case? A No sir.
Q Who was your attorney employed at the beginning? A I employed A. H. Norwood.
Q Was he a Cherokee Citizen? A Yes sir, I think so.
Q Where didhe live? A At Claremore, my understanding.
Q Was he present at any time before the Commission? A I never saw him, he never met me there before the Commission.
Q Did you pay him any money? A Yes sir.
Q How much? A Fifty dollars.
Q Did he ever render any services? A If he ever did I never knew it.
Q Well then who did you employ? A My brother employed Joel Bryant.
Q Was he a Cherokee citizen? A That is my understanding.
Q Was he not aprominent Cherokee citizen? A Yes sir.
Q What service did he render? A Well sir, I don't know whether he rendered any or not, only he met me a time or two at Tahlequah, and he was before the Commission; whether he rendered any services or not I don't know; he was generally always at Washington City during the Term down there.
Q Well what did he do about it? A I don't know, I couldn't say whether he dome anything about it. That is Mr. Bryant, he was always gone.
Q What next was done about the employment of an attorney? A Why I got a letter from Joel Bryant that he was going to Washington City and for me to come down in January Term and Campbell Taylor would see to my claim before the court.
Q Did he say that he had engaged the services of Campbell Taylor the attorney, to attend to it in his absence? A Yes sir, in his absence.
Q Have you got that letter? A I don't think I got the letter.
Q Well what did you do then? A Why when the time come I come down on the Katy to Muskogee here and I goes over fromhere to Fort Gibson and I goes down to see Uncle Houston Benge and stays all night with him; it was very cold weather, and I ~~xxxx to go xxxx~~ ~~xxx~~ got him to go over and submit my case to the court; I went over one day and the next day Uncle Houston Benge come over and the next morning after he come over the case was submitted.
Q Did he submit the case? A Yes sir, he told me so.
Q For you? A Yes sir.
Q Were you present? A I was present until they went to take the vote on the case and then we was drove out of their room and they had a secret session, acting on the case.
Q Was Houston Benge present with you? A Yes sir.
Q Were you in the court when he submitted it to them? A Yes sir, when he made his argument.
Q He made an argument before the Commission? A Yes sir.
Q Was the decision rendered on that day? A Yes sir.
Q How long after he made his argument and submitted the case? A Was not but a little bit; when we were drove out of the house the first time before they went into secret session they wanted me to set up

the cigars to the court and the crowd in the house; after the decision was rendered then I was to set up the cigars, and everybody come to me and told me to go and get the cigars and I done so.
Q And you took the cigars there and all? A Yes sir, everybody, the attorneys and all that was in the house, all had a big smoke.
Q Did they then announce their finding in the case? A Yes sir, they told me that I was granted my citizenship right and by the Commission.
Q What did you do about it then? A Why the clerk wrote me out my certificate.
Q That same day? A That same day.
Q What arrangements did you make with Mr. Benge about his fee, and what was the amount ofhis fee? A There was no arrangement made until we got back and he up there and he submitted our case; then he wanted me to pay, he charged me fifty dollars, that was his fee.
Q What was the agreement about the matter, thewthe manner in which that fee should be paid? A My brother in Texas was to pay it.
Q Were you to write or was he to write? A He was to write for it.
Q Did yourbrother in Texas ever pay his fee of fifty dollars?
A Yes sir.
Q Was that all that was to be paid? A All he was to have; all he charged me.
Q You heardhis statement when he gave his deposition at Fort Gibson the other day did you not? A Yes sir.
Q He there stated that you paid him fifty dollars before you went over to Tahlequah , did you do that? A No sir.
Q He said that you paid him fifty dollars after he got over to Tahlequah, did you do that? A I never paid him a cent in my life.
Q After that judgment was rendered where did you go to? A I went back home to Arkansas.
Q By what route? A I went by Siloam Springs and on by Spring Dale and then on to Rogers, took the railroad there and went on by Saligman and by Eureka Springs home.
Q You then did not return to Fort Gibson with Houston Benge, as he stated? A No sir, I did not.
Q Why did you not return by wayof Fort Gibson? A Well I thought maybe the othere was the cheapest road and I struck a hack going out by Sam Shables where I was bearding at, I could go to Siloam Springs and I went by that route and then there was a hack going by Spring Dale, that was the most direct route.
Q That was the most direct reute from your home was it not? A Yes sir.
Q And the cheaper? A And the cheapest reute.
Q Had you been coming back to Fort Gibson you would have been going directly away from home would you not? A Yes sir.
Q Your home was nearly east, due east of Tahlequah was it not?
A Yes sir, little north of east, pretty near due east.
Q While Fort Gibson is almost due west is it not? A Southwest.
Q You heardhis statement that you went to Fort Gibson with him, and as you came you stated to him that the way to reach that court was through Duncan and you reached them through Duncan with five hundred dollars, did you make that statement? A I never did, I didn't have the five hundred dollars to reach with.
Q Did he while at Tahlequ ah in the court room on the evening before this judgment was rendered in your favor, tell you that the court had rendered a judgment against you? A No sir.
Q And did you then say to him, you would fix that? A I had no such conversation with him.
Q Did you pay to D.W.C.Duncan, who was the Clerk of the Court any sum of money, or agree to pay him any sum of money , directly or through any other person for any services he might render you by way of influencing the court to decide in your favor? A No sir.
Q Or for any other purpose? A No sir.
Q Did you pay him any money after that through Campbell Tayler?
A Yes sir.
Q That amount? A 20 or 25 dollars I don't know which it was.

Q State what that money was paid for? A For a claim.
Q What do you mean by a claim? A Claim on the public domain; he had a claim up there close to me; paid him 20 or 25 dollars for his claim he had up there by me, on the Cherokee Public Demain.
Q Cmxthmx What did Campbell Taylor h ave to do with your case?
A He had nothing to do withit.
Q Did you agree to pay him any money for his services as an attorney?A No sir.
Q Did he perform any services in that case for you as a repre sentative of Mr. Bryant? A No sir.
Q Did youpay him any money? A Yes sir.
Q On what account? A He come to me and said he had the claim against me for Joel Bryant and wanted me to pay him the money and I done so.
Q What amount? A Hundred dollars.
Q How was that paid to him? A In money as well as I remember, for Joel Bryant. He was collecting it for Joel Bryant.
Q Did he pay that money to Joel Bryant, that you know of? A Joel Bryant claimed he didn't, and we had to pay him again, paid Joel Bryant the hundred dollars we owed him for his fee ; E. Dawson paid Joel Bryant; after that; we never could get the money from Campbell Taylor, only this twenty dollars or twenty-five dollars; that is all we ever got back from him.
Q How did you get that 25 dollars out of him for Duncan? A I kept after him and telling him to pay that money back to me, he rendered no services to me at all and the money was to go to Joel Bryant, and I finally worked out the twenty or twenty five dollars, that is all I ever didget back.
Q The amount that he paid to Duncan? A Yes sir.
Q Was this money paid to him, this one hundred dollars, while you were there at the time thejudgment was rendered, or was it sent to him afterwards? A I think it was paid then, as well as I remember about it.
Q You think it was paid then? A Yes sir, that's my recollection now.
Q Did you send him one hundred dollars after you went away from there, subsequent to the rendering of that judgment, after it was rendered I mean, directing him to pay fifty dollars of that or any other sum to D. W. C. Duncan? A No sir.
Q Did you send him a second one hundred dollars with such direction? A No sir.
Q Mr. Dawson, do you know about what kk it cost your family in all to obtain their citizenship in the Cherokee Nation under this judgment? A Pretty near it I do.
Q Well about what sum? A About five hundred dollars, pretty near 500 dollars. That is what I considered,I was beat out of some of my money, what I was beat out of and expenses.
Q Now make a statement of what that money was paid for and how, so far as you can remember, itemize that now? A Well the first fifty dollars Norwood got; thenext fifty dollars Benge got; that was the attorneys fees; I speak of the attorneys fees now; the next money was the hundred that Campbell Taylor got; the next attorney fees was Bryant's one hundred dollars.
Q Was that all the attorneys' fees? A I think it was, no, wait, I paid Ross 15 dollars for taking Baker's deposition.
Q Which Ross was that? A The old Chief, Bill Ross I think was his name, William P. Ross.
Q He then, this Chief William P. Ross for taking the deposition of Dr, Baker charged you fifteen dollars? A Yes sir.
Q Do you mean by that that he acted as your attorney and examined him? A Yes sir.
A He examined him before the Commission, took his statements.
Q What other attorneys were there present? A None of them was present.
Q Well now, go on? A Why the expense of taking Dr. Baker and he was a Doctor, as well as I remember he charged me 5 dollars [illegible]

a day and I bore mine and his expenses down there; we come through in a hack from Berryville, Arkansas, to Tahlequah, and our board and expenses and all I think was about 75 dollars that trip; something near it. Maybe a little over that.
Q Did you pay him a per diem? A I paid him five dollars a day for his time and then his expenses.
Q Well? A Well I made several trips out here at different times, to Tahlequah before the Commission, and back, three or four trips as well as I remember now, cost me 20 or 25 dollars each trip, as I remember about it.
Q Do you remember how many trips aside from the one in which you brought Dr. Baker? A No, I think there was probably three trips I think it was, maybe more, and then I made one trip to Claremore to see A. H. Newrwood.
Q What did that trip cost you? A I don't remember what it cost; I went in a wagon down there.
Q You went through and employed Benge, went by railroad; what did that trip cost you? A I don't remember what it was, whether it was 21 dollars or 31 dollars, one or the other, I don't remember which it was; Joe Dawson, my brother give me the money, it was either 21 or 31 dollars.
Q Now then is there any other expenses that you know of that was paid by you or your family, any members of your family, other than that you have mentioned? A I don't remember of any other now; I can't call to my memory right now.
Q What was the condition of the members of your family generally now, financially, at that time? A Well we were considered poor people; I don't know, we didn't have much money, scarcely any.
Q Was there any one of them that was better off than the others, and if so, which one? A I suppose Elbert Dawson was better off than the others, Buck Dawson.
Q Do you know how much Buck Dawson paid of these expenses? A I don't think he paid, he paid the Benge debt and the Bryant debt, I think it was.
Q That is one hundred and fifty dollars? A Yes sir, then he came up on one trip and taken some evidence withJoel Bryant when Joel Bryant was Clerk of the Court before this Tehee Court, I don't know what that cost him.
Q Come up there and took some testimony? A Yes, came up and went back to Texas. Filed his claim and took some testimony and went back to Texas and I didn't see him.
Q Did that testimony include Dr. Baker's testimony? A No sir.
Q You know how many witnesses were examined then? A I only know what he told me.
Q How many? A Four witnesses.
Q You know whether they were residence of the Cherokee Nation or not? A He told me they was.
Q Were you present on that trip in which he came up there and took that testimony? A No, I met him there and then I went back home and left him at Tahlequah.
Q He had taken the testimony before you left him or afterwards? A He taken it afterwards; that was my understanding.
Q Did Buck furnish only the one hundred fifty dollars that you now remember? A I think it was, ~~xx~~
Q And the expense of taking these witness up there? A Yes sir.
Q Who else furnished money now of the members of your family? A My brothers and father lived down in Berryville, me and my brother-in-law, Blassingame, we all chipped in together a few dollars from each family.
Q You heard the statement of C. G. Brought that in June 1883 you told him that it had cost you 700 dollars, did you make any such statement to him? A I never did.
Q And that you paid one witness 300 dollars? A I never made any such statement.

Q Did you pay any witness any such sum? A No sir, I paid Dr. Baker for his time; he said his time was worth 5 dollars a day, for him, and I paid it.
Q Did you pay any other witness any more than that? A No sir, he was the only witness I taken down there in my case.
Q Well, the Robert Dawson case? A Yes sir.
Q He says that you told him that in your house there on your place, did you have any house there in June 1883? A I was not living on my farm at that time.
Q Did you have any farm? A Didn't have any.
Q When did you build a house there? A I built a house on the farm I lived in now by Mr. Brought, I moved on the farm the last of July, 1883, and I camped in my wagon.
Q What did you do? A I went to the timber and cut poles and hauled them out and made me a log cabin on the place by a spring near Mr. Brought.
Q About what time did you finish that house? A It was in September.
Q How long after you finished that house until you brought your family out? A I finished it up and got it covered and the floor in it and I went back to Eureka Springs after my wife.
Q What family did you have then? A I had my wife and she had one child; but my oldest children, by my first wife were with me in the Territory, camping with me; three little boys and one girl were with me, and one girl back in Arkansas.
Q Are you and C. G. Brought on good terms? A No sir.
Q What has been the character of the trouble between you? A Trouble over our places first started it.
Q When did it begin? A As soon as I got back from Arkansas he commenced kinder crowding me out to take my farmaway ffom me, and we have been in aracket ever since.
Q Then his statement that you were on friendly terms, is it correct or not? A No sir, it aint correct.
Q He and you have never been friendly as neighbors then since you first came back from Arkansas and settled in the Territory? A I don't remember ever being in his house; I never was in his house.
Q Have you had law suits with each other? A Yes sir.
Q How many? A I don't know that we had any particular law suits, but I have had law suits and he has been a witness against me.
Q What was your last trouble with him, when I mean? A Along last fall
Q That was when your boys had a little racket and he had your boy arrested? A Yes sir.
Q What was the age of those boys? A Eleven years old.
Q He had him arrested downat Vinita? A Yes sir, had him arrested and carried before the Commissioner at Vinita.
Q He was discharged on acc ount of his age? A Yes sir.
Q Buck Dawson is dead is he? A Yes sir.
Q How long has he been dead? A Three years, little over three years.
Q And James Dawson is dead? A Yes sir.
Q Is your father, Robert Dawson living? A No sir.
Q When did James Dawson die? A I don't remember, been dead several years, I don't remember how long, 6 or 7 years, I couldn't state.
Q When did your father Robert Dawson die? A I believe it was in '87 as I remember now, I wont be positive.
Q Had all these moved to the Cherokee Nation before their death? A No sir, father died in Arkansas.
Q Those that lived here in the Nation they lived here in the Nation but went back to Arkansas and died there? A Well the rest of my folks all lived here. That was James Dawson and Buck Dawson.
Q Robert Dawson, your father, never did move to the Territory, did he? A No.
Q Did you hear the statement of the witness Beavert this morning,

that about the time of the hearing of the James Dawson case, at a negro church at night James Dawson came down there with someone else was introduced to him, and he loaned him ten dollars; did you hear that statement this morning? A I heard the statement, yes sir, I heardit.
Q He says that man James Dawson was 35 or 40 years old; was there any James Dawson living belonging to your family at that time of any such age? A No sir.
Q How many James Dawson's were there belonging to your family? A There was my uncle James Dawson and a brother James Dawson, the Doctor here.
Q How old was your uncle James Dawson then? A He was a tolerable old man, I don't know his age.
Q About what age? A Must have been in 60.
Q Between 60 and 70? A Yes sir.
Q What was the age of your brother James? A At that time?
Q Yes sir, in '84? A In '84 I suppose he was about 18, something like that.
Q Had he anything to do with the James Dawson case? A No sir.
Q Was he present at the time that the James Dawson case was under consideration? A No sir.
Q Was James Dawson, your uncle James Dawson, present at any time during the consideration of his case? A No sir.
Q He never was present? A No sir, if Uncle Jim Dawson was ever in Tahlequah I never knew it.
Q Who conducted the prosecution of the James Dawson case before the Cherokee Citizenship Commission, who conducted it? A The James Dawson case?
Q Yes sir? A I think James Low and Bill Jackson and Campbell Taylor.
Q Were you acting with them? A Yes sir.
Q They employed Campbell Taylor? A Yes sir.
Q Then there was no James Daw son present during that session of the Commission? A No sir.
Q What was the condition of James Dawson's health at that time? A It was pretty poorly; wasnot good.
Q Was he at that time able to get about and attend to business? A I don't think he was.
Q Was he not a very feeble minded old man at that time? A Yes sir.
Q Regarded as rather a silly man was he not? A Yes sir.
Q Did he attend to any kind of business of the family at that time? A No sir, didn't.
Q What was his financial condition? A Pretty bad.
Q Did he have any money? A No sir.
Q Did he have any property? A None hardly at all; horse probably, or a cow or two, something that way.
Q Was that about all the property he had? A Yes sir.
Q How about the other members of his family that were admitted at that time; what was their financial condition? A They were in poor circumstances.
Q Now then after these judgments were rendered what members of your family removed to the Territory, Cherokee Nation, I will say? A Robert Dawson and family and James Dawson and family, that is, them and their children.
Q Robert Dawson didn't remove here? A No, I said Except Robert Dawson.
Q Did all the members of Robert Dawson family move here? A Yes sir
Q Except himself? A Yes sir.
Q And all the members of the James Dawson family? A No, not all the members, Melvina Low I don't think ever lived here.
Q She has never moved here? A No sir.
Q Well all the members of your family, your father's family included in that judgment of the Committee, rendered January 11th, 1883? A All but one.
Q What was the name of that one? A Edna.

Q A daughter? A Daughter of Robert Dawson.
Q Your sister? A Yes sir.
Q Was she then of age or was she a minor? A I think she was a min or, as well as I can remember.
Q Was she afterwards admitted to citizenship in the Cherokee Nation? A She was.
Q By a commission or by the Cherokee Council? A She was first admitted by the Spears Court, here and two of my neices.
Q What are their names? A Katie Vernon and Verna Fishback.
Q What became of that? A The certificate papers they got was lost, and they went before the Council in 1894 and they was re-admitted back bythe act of Council.
Q That was in 1894, the Cherokee Council admitted, re-admitted as they called it, the three above named? A Yes sir. Mary and Verna Fishback and Katie Verner , they have now the same names now except Verner , it is not, Teb Robinson married the widow, a niece of mine.
Q Now then was there any other consideration of the Dawson case by the Cherokee authorities at any time aside from these two judgments of '83 and '84 admitting the two families of Robert and James Dawson, and the act of Council of '94 admitting these three whom you have just named? A Yes sir.
Q When? A Why two of my sons was placed on the roll by the act of Council in 1892 I think it was; left off of the rolls in per capita payment and they was placed on the rolls I think, and Sam Nighthugh member of Council, got their draft or checks for the money.
Q Have you got that copy of the act of Council admitting them? A Yes sir.
Q Where is it? A (Produces papers.)

BY MR. McKENNON: We now offer in evidence an act of the Cherokee National Council making an appropriation of 26,900 dollars belonging to the general fund for the payment of certain persons therein named in a per capita payment, as per amount set opposite their respective names, provided that the Principal Chief shall draw warrants for such amounts, and further provided "That the names of the persons appearing on the per capita rolls in this act shall be placed (on) the authenticated roll of 1880 by the Principal Chief."
This act was approved December 31,1891. Approval signed by Stephen Tehee, Assistant Acting Principal-
In this list appear the names of William R. Dawson for payment of $13.70, and of Marion Dawson, for a like sum. Are these now the names of two of your sons? A Yes sir.

(This paper above introduced, is filed and made part of the records in this case.
Q Was there any other action of the Cherokee authorities relating to members of your family? A Yes sir.
Q When? A In 1894.
Q What was that? A Allowing them their Strip money.
Q Have you a copy of that? A I think I have.(Produces papers.)

BY MR. McKENNON: We offer in evidence a duly certified copy of an act of the Cherokee National Council approved November 24,1894, signed C. J. Harris, Principal Chief. Senate Bill No.19, appropriating a sufficient amount of money to make payment per capita of whatis known as the Strip money to certain persons named therein. Among them are members of the Blassingame family, as follows: Jane, Elbert, Henry, James Ross Lennie, Pearl, Amos, Myrtle, Winnie and Clifford; this act mentions these persons as Cherokees by blood, and whose names had been left off the pay roll fx approved May 3,1894, providing a payment to each one of these a sum of $265.70.

Q Were these members of the Robert Dawson family? A Yes sir.
Q Which one of the members of the family? A Jane.
Q This is Jane who was admitted by the judgment admitting the Robert Dawson family? A Yes sir.

Q And her children? A Her children, was not admitted, she was admitted.
Q I mean this mentions her children here? A Yes, that mentions her children.

(The paper last above introduced is filed and made part of the record in this case.)

Q Do you know whether the payment of the Cherokee Strip money was to Cherokee citizens by blood only or not? A Yes sir.
Q Was there any other act of the Cherokee authorities passing upon the citizenship of members of your family? A Why the Douthett children, my brother's grand-children. Two grand-children of E. Dawson.
Q When was that? A That, I think it wasin '84.
Q Have you got acop y of that act? A No, the record is here.
Q Was that by the Spears Court? A Yes sir, by the Spears court.

BY MR. McKENNON: We now offer in evidence a judgment of the Cherokee Commission on Citizenship, 1880 to 1884, found on page 190, case No.181, dated September 9th,1884, signed by Eli Spears, President, John Lee and Andrew Young, Commissioners, admitting to citizenship Lula Dowthett and Dallas Dowthett as Cherokees by blood.

Q These now are the Douthetts to which you refer, are they? A Yes sir

BY MR. McKENNON: Attention is called to the fact that the names of the Commissioners are all signed in the same handwriting as the record of the judgment.

The said judgment record just above introduced, and found on page 190, No.181, Record of 1880 to 1884, is as follows:

"Office of Commission on Citizenship,
Tahlequah, Cherokee Nation, September 14th,1883.

E. Dawson, for his grand-children, No.181. Lula Dauthitt, Dallas Dauthitt, vs The Cherokee Nation.	C. H. Taylor, Atty for Claim. Petition filed September 14th,1883.

Case submitted by Claimants Sept 14th,1883.
Case submitted by Solicitor, Sept. 19th,1883.
Continued by Petitioner Jan 22 1884 to September Court 1884.
Re-submitted September 2nd 1884, by Attys Taylor and Beavert

Submitted by defense Sep 9 1884.

And now on this the 13th day of September 1884 comes this case for final hearing and all the evidence in the case having been carefully read, and considered by the Commission on Citizenship it has been decided by the Commission that the above named Lula Dauthett and Dallas Dauthett are Cherokees by blood, and that they are entitled to all the rights and privileges of Cherokee citizenship in the Cherokee Nation and that they should be, and are hereby admitted to the full and complete enjoyment of the same in all respects, as native born Cherokees.

Eli Spears, pres.
John Lee,
John L. Adair, Clk Com'n. Andrew Young,
Commission on Citizenship.

Q Now were there any other actions of the Cherokee authorities

of like character relating to themembers of your family?
A I don't remember of any others.
Q I will ask you if when the Cherokee authorities were makeing the roll of 1896, in compliance with the request of the Daws Commission for a roll to be prepared by them for the use of the said Commission, the question of the citizenship of the members of your family was not then raised and an investigation had in regard t o it? A Before the Dawes Commission?
Q No, before the Cherokee Commission making the roll of 1896, of which John T. Gunter was a member? A Yes sir, yes. I had forgot it, but since you have named it there was some investigation of them at that time; that is what I understood.
Q That roll shows that the members of your family were duly enrolled by that Commission? A Yes.
Q Have you and the other members of your family since your removal to the Territory in 1883 and immediately following been recognized as Cherokee citizens by blood? A Yes sir.
Q Have you been exercising and enjoying all the rights of Cherokee citizens by blood since that time? A Yes sir.
Q You and all the members of your family are living in the Cherokee Nation? A Yes sir.
Q You have all drawn Cherokee moneys whenever payments were made? A Yes sir.
Q And have you all male members been voting at the Cherokee elections or in the Cherokee elections? A Yes sir, I was one of the judges of the elections that was held voting on the treaty.
Q What treaty? A The treaty bill that was sent back here for the Cherokees to vote on; I was one of the judges at Afton.
Q In what year was that? A I believe it was last spring sometime, last April.
Q Have any of you held any offices in the Cherokee Nation? A Yes sir.
Q What offices have the members of your family filled? A Deputy clerk, under Pete Hastings, when he was clerk of Delaware District, I was a candidate once for Council in the Downing party.
Q Can any office of deputy clerk be held by any one else except a recognized citizen? A Only by a citizen, yes sir.
Q Is that all? A (No reply).
Q Have the children of members of your family attended the Cherokee schools, and been educated in Cherokee schools? A Yes sir.
Q Have the members of your family been all the while subject to the jurisdiction of the courts of the Cherokee Nation? A Yes sir.
Q Have they been tried for any offences against the laws? A Yes sir
Q And have they instituted their civil suits in the courts of the Cherokee Nation? A Yes sir,
Q And had suits instituted against them in such courts? A Yes sir.
Q Some of these cases have gone to the Supreme Court of the Cherokee Nation? A Yes sir.
Q And were passed upon by that tribunal? A Yes sir.
Q Is there anything else? A Nothing now; I am sick this evening; I have got the head-ache so bad I can't hardly see.
BY MR. HUTCHINGS:
Q How old was your father Robert Dawson when he died? A I don't know, I couldn't answer that.
Q He was a very old man? A Yes sir, he was getting tolerably old.
Q Could you tell how much older he was than you? A No I don't know.
Q Mr. James Dawson in 1884 must have been a very old man wasn't he? A Well he was old and he was feeble.
Q Well you stated that he had become silly; was he naturally that way? A He was used to live in Texas; I didn't know him until after he come to the Territory.
Q I say he had gotten so old, that was the occasion of that? A I suppose so; the oldest one of these children was Mrs. Betty Petty, that's my understanding.

Q And the oldest boy was John Dawson? A We always called him Jack.
Q Jack Dawson he was the oldest? A Yes sir.
Q Sam was the youngest? A Sam Riley.
Q He was the youngest one of the crowd? A Yes sir.
Q Your father lived four or five years after he and you were admitted to citizenship? A Yes sir, something about that, it was in 1883, I think he died in 1887, I wont be positive; that is as near as I remember now. I have got a headache so bad that I can't remember anything.
Q He nor none of the older members of the family were ever present at any of these trials of citizenship? A No sir, not none of them was .
Q Not a one of them was ever called upon to testify as to the blood of their mother, who she was or anything about it? A I don't think they were.
Q Your claim of kinship was through Captain John Rogers and that your grandmother was the half sister to Big Joe Vann, wasn't it? A I don't know, I couldn't answer the question.
Q You were there when they took the testimony? A I was there when Dr. Baker's testimony was taken, that was about 18 years ago.
Q And nobody kin to the Rogers or the Vanns was ever called to testify in the case? A Not as I know of.
Q They were very well known Cherokee families in the country? A I suppose so, I don't know.
Q And yet nobody on any side of the family connected with it was ever called to testify? A Not that I know of, I don't know what my brother done, he taken some of the evidence at Tahlequah when I was not there; he first filed his claim.
Q You had spoken to Dr. Baker about the testifying before you brought your case didn't you? A No sir.
Q Must have been a very short time afterwards? A It was a short time afterwards. I went back after him and it was too late and I fetched him the next time.
Q You had talked to your brother about what you could prove by Dr. Baker? A I told him I thought Dr. Baker, I thought he knew about our folks.
Q You had told him in a general way you expected to use Dr. Baker as a witness? A Yes sir.
Q You went off, come to Arkansas and left your brother at Tahlequah after you told him that fact? A Yes sir.
Q You didn't see your brother any more until after you were admitted? A No sir.
Q You and he however made trips back and forth to Tahlequah and home at different times, but you didn't happen to get together? A No. I never met him any more and I don't know that he was there until after we were admitted .
Q But you were there and brought Dr. Baker over? A Yes sir.
Q And took his testimony a year or such a matter before ever you were admitted? A I think as well as I remember, yes sir.
Q Now the way you came to get Campbell Tayler was on the recommendation of old man Bryant? A I didn't get him, didn't use him.
Q The way he came into your case? A The way he claimed to come in.
Q He did more in your case than Bryant did? A Campbell didn't do anything.
Q What did Bryant do? A I think he help my brother take evidence my brother employed him.
Q How did you happen to be sendingmoney by Campbell to Mr. Duncan? A I never sent him any money.
Q Then when he, Mr. Duncan, states that Campbell delivered the money as Campbell said he did, both were wrong? A Oh no, you are mistaken, Mr. Duncan got 20 or 25 dollars, which he stated, from Campbell Taylor, forme.
Q How did you happen to give it to Campbell? A I give the money to Campbell to give to Joel Bryant, and he wouldn't do it, and I tried to get the money back from him, and I finally worked the 20 or 25

dollars he gave to Duncan.
Q Then you didn't tell Duncan as he testified that you sent 20 or 25 dollars by Campbell Tay lor? A Campbell Tayler agreed to pay Duncan 20 or 25 dollars for me of the money I give him to give to Joel Bryant.
Q The family kept Campbell Tayler employed though as their attorney after that? A In the James Dawson case I think so.
Q N. Dawson, you remember, had him for his grand-children? A That is my understanding.
Q And your uncle James Dawson had him in the case of his children? A Uncle James had nothing to do with his it; James Low and Bill Jackson got him; that was my understanding of who employed him.
Q The record here shows that the case was originally instituted by C. H. Tayler and was finally submitted by him September 2nd,1884, in the James Dawson case? A I don't deny him being in that case.
Q You say he was employed in the N. Dawson case? A I don't know who was in the Douthett childrens' case.
Q The record shows that Campbell Tayler instituted the case, and it was finally submitted by him, and Mr. Beavert, who testified a while ago? A That was in the James Dawson case, wasn't it?
Q That was in the N. Dawson grand-children? A Elbert?
Q No, in the Douthett children's case? A Oh yes.
Q He was likewise attorney in the Mary Dawson case was he, and before the Adair court, the 4th of October, 1887, in the case of James K. P. Dawson? A I don't know anything about that.
Q And the case likewise of RileyDawson? A I don't know anything about these.
Q They are relations of yours? A Well I couldn't say.
Q James K. P. Dawson proves to be a son of Riley Dawson? A Well if he is he is my connection them. There are so many Dawsons I don't know them all.
Q You know Andrew J. Dawson? A Yes sir.
Q The Dawsons have so many children their brothers didn't hardly know them did they? A That's it, I don't know them.
Q Well then you don't know who Andrew J. Dawson is? A No sir, I don't know.
Q He refers in his application as being a cousin of N. Dawson, and yourself, who were admitted to citizenship by the Tahee Court? A He may be, I don't know nothing about it.
Q He resided I believe, at that time at Nevada, Missouri? A I don't know anything about them people.
Q Old man Baker was an old and paralysed man at the time he testified wasn't he? A Getting old, he was not paralysed.
Q Then the statement made that the reason he couldn't write his name and had to make his mark, because he was paralysed, in the testimony isn't that true? A He didn't have good use of his fingers.
Q Then he was not paralysed? A No, I brought him over there in a hack from Berryville, Arkansas.
Q Well I say he was a very old man? A Yes, getting old.
Q Now didn't you come to this place up here joining Brought's and work on it sometime before you brought your family? A No, I brought my family with me, except my wife.
Q And you subsequently built a log house on it? A Yes sir.
Q And went back and got your wife and moved them to the log house? A Yes sir, went to Eureka and got my wife.
Q You never saw your grandfather at all? A Sam Dawson, yes sir, I saw him.
Q You remember do you of being with him much of any at all? A I was in Texas in time of the war, with my uncle Riley Dawson, and he was there.
Q In '60 sometime? A '62, I reckon, or '63. Somewhere along there, it was in time of the war.
Q How old a man was he at that time? A Pretty old man.
Q You never saw your grandmother ~~x~~ she died before she came? A Yes sir, I never saw her at all.
~~Q xxxx~~

Q Who first started the citizenship matter, your brother in Texas or you? A Why it was me, and my brother together.
Q I mean who first conceived the idea? A I first commenced talking about it.
Q And sent down for him? A I was in Texas with him and then in Arkansas; I went backwards and forwards a time or two after the war.
Q About that time nearly everybody in Arkansas were trying to get some claim of kinship to Cherokees? A No sir, not at that time.
Q They were getting pretty thick in there in 1880? A Well in '83 and '4 and '5 I think.
Q Been some excitement over there to get yourselves on the rolls? A Just got to be everybody; but it wasn't at the time we was admitted there was not much stir about the rights here.
Q Well the Watts had been admitted before that? A I suppose they had; there was not much excitement over the Watts claim at that time.

BY MR. HASTINGS:

Q You did locate and board with Sam Shables when you first come to Tahlequah in '81? A I think I did.
Q Your brother Buck Dawson stayed there also? A Yes sir.
Q Sam Shables lived in the north end of town, old German? A Yes sir, old German, lived in the lower part of town.
Q Did you ever hear the names of any other witnesses which you stated perhaps testified in your case? A I have heard them but I have forget them.
Q You don't recollect any name now? A I don't remember them no sir
Q In the Irene House case and Joanna Barber case, in which you testified before the Commission, when you were making search for this testimony you couldn't find any other testimony from that of record except the Dr. Baker testimony, could you? A That's all we could find; no we didn't find the testimony, we got a copy.
Q Well it must have been a copy of the original, the certificate shows that? A I don't know; House get a copy of what claimed to be the affidavit of Baker and he told me you give it to him; thatis all I know about it.
Q Well the certificate there does not bear my certificate does it? A I don't know about that, I am no scholar.
Q Well you didn't get the testimony of any other witness except that of Dr. Baker; you couldn't find any other over there of record? A I didn't hunt for any; House hunted for them.
Q None of you have ever been able to find any other? A No. Not even find out petition.
Q Samuel R. Dawson applied to what is known as the Adair Court, didn't he? A I don't remember now.
Q He was an uncle of yours wasn't he? A Yes sir, claimed to be.
Q The father of these two parties who testified here this morning? A Well I don't know, they claimed to be, I never met them to know them.
Q He was rejected by the Adair court, or Mayes court? A I don't know whether he filed his petition.
Q Did you testify in his case? A I don't remember; I might have done it.
Q Didn't you testify in the Andrew J. Dawson case before what is known as the Mayes court? A I don't recollect, if I did I don't remember.
Q Did you testify in the Riley Dawson case? A No sir, not that I remember.
Q Didn't you know of his being rejected by that court? A I don't remember, sir.
Q You know that the Cherokee Council never authenticated the roll of 1896, don't you? A No sir, I don't know it; I didn't know this was done until I went to Tahlequah after some papers and come back and they told me about it.
Q You never found out that C. H. Tayler was a big rascal up until the present time have you? A (No response)

Q The records here show that he has been in the constant employment of your family from that date up to this time? A Why it shows here from the record; I would rather be excused for my part of it.
Q You were the man that had the most to do with it? A I never employed him, I can say that.
Q You are the man that had most to do with the records? A In my case and in my father's case.
Q Didn't you testify for your uncle Jim Dawson? A Yes sir.
Q Wasn't he attorney for him? A Yes sir.
Q Wasn't he employed by Jim Dawson after you get your citizenship? A Why not but the grand-children.
Q Jim Dawson's petition was filed in September 1883, after yours? A Yes sir.
Q C. H. Taylor, attorney of record, filed his petition? A He might have filed it for all I know.
Q Well you hadn't at that time fallen out with C. H. Taylor had you? A Why no, we never did have any trouble, only over this money, he never would give it back to me or give it to Bryant.
Q You never discovered that he was such a bad man until after your judgment was rendered? A I know he was not of good character.
Q Are you and Brought, this man who testified for the Cherokee Nation, on speaking terms? A Hardly speak.
Q Does he refuse to speak to you? A Sometimes he does.
Q Do you refuse to speak to him? A Yes sir.
Q Have you been speaking to him for the last two or three months? A I have not spoke to him until I met him here at the hotel the other day.
Q First time you spoke to him since he had the boy arrested ? A Yes sir.
Q When did he have the boy arrested? A Along in September or October, September I think
Q When did Dr. Baker die? A I don't remember.
Q You don't know how much older your father was than you? A No, I don't know.
Q What is your age? A I will be 60 in May.
Q Then you were born in '42? A Yes sir, '42, according to the record.
Q Was your father as much as 25 years old when you were born? A I couldn't say.
Q What was your best judgment? A I suppose he was 20 or 25 years old. My understanding he married young.
Q Can't you give any better idea than 4 or 5 years of your father's age? A I say 25.
Q Your father was born say, 25 from 42 would have made him be born in 1817; now had your father any older brothers or sisters? A I think Jack Dawson was the oldest of the family, no, Betty, the girl, was the oldest and Jack next, and then my father as well as I remember about it.
Q There were two girls older? A No, one of the girls I never saw.
Q Then you think there are only 2 older than your father? A Yes, that's my understanding of the family.
Q Dr. Baker gives his age 73 in '82, which would make him be born in '09, now he states that when he was 15 or 16 years old, which added to 1809, will make 1824, that your grandmother Anna Pruett, was a school girl; whereas from your testimony and that of the family history introduced here shows that your grandmother Anna Pruett was the mother of seven children, the youngest being born in 1823, how do you reconcile that? A I don't remember about the statement of Dr. Baker; I don't know that he made any such statement as that, I don't remember about it.
Q And if he did you don't know how to reconcile it? A (No response.)
Q Did you talk to any of the members of the court that admitted

you? A No sir, I was not acquainted withthem.
Q You know whether they were old or young men? A They were old men like; Steve Tehee, I got acquainted with him afterwards, and Tommie Thompson, at the Council you know I was there a good deal.
Q That was the fellow that was on the court? A Yes sir.
Q He was afterwards assistant Chief of the Cherokee Nation?
A I think so.
Q Steven Tehee, that's the man you had reference to? A Yes sir, I think it was, I just knew the man; I had no acquaintance with him at all.
Q D.W.C. Duncan boarded when you were down there at the National Hotel? A I think he did, as well as I remember now when we were admitted.
Q Don't you know he did? A I think he did, as well as I remember.
Q Were not you over there to his room? A I think I was.
Q You remember when it was that you brought Dr. Baker down there to make a statement before the court? A It was in January, Term, Was in January Term of 1882 I believe, it was, as well as I remember about it.
Q Well you didn't take any more testimony after Dr. Baker testified?
A No sir, I didn't.
Q But your case was not submitted nor passed upon for a year?
A I think it was, yes sir, as well as I remember.
Q I would like to ask you when the Blassingame family came to the Cherokee Nation? A Alex Blassingame came with us when we moved here, and went back and got his family and moved thatf all.
Q Did he move his family here that same fall? A Yes sir.
Q What year was that? A In the fall of '83 I believe it was, as well as I remember now.
Q When did the Bulaska family come? A I think the girl and the old lady come in the next spring.
Q How long did they remain that time? A The old lady stayed here, but the girl went back and in a short time her and her husband come back.
Q Did she come back until after her marriage? A No , she was married when she come first.
Q The last time? A She was married I think, she was married when she come out.
Q How long has August Bulaska been a permanent and continuous resident of the Cherokee Nation? A I think he come there in the fall of 1884 or 1885, I wont say which.
Q How long has Robert Pierce been a continuous resident of the Cheroke Nation? A Ever since he was admitted.
Q When was that? A '83.
Q How long has Martin L. Patterson? A Ever since he married his wife, and he was living here before he married his wife.
Q Who is Amizona Alrey? A That is my daughter.
Q Did you bring her here with you? A No not when I moved.
Q When did she come? A She come out in a year or two after I moved here.
Q Was she married when you moved here? A No sir, she was not married.
Q She was not married when you were admitted? A No sir, she was a child.
Q When did Jim Lowe come to this country? A With his grandfather, James Dawson.
Q What was his mother's maiden name? A Melvina Dawson.
Q You knew Jim Lowe's age? A No sir.
Q Don't know how old he was in '83? A No sir.
Q Was he grown? A I think he was.
Q Married? A No no.
Q Married in this country? A Yes sir.
Q Who is James H. Harmon? A Married one of the Jackson girls.

Q When did they come to this country? A Right away after they was admitted.
Q In what year? A I think the winter of '94, I think it was, spring or winter of '94.
Q You know Gideon Graham? A Yes sir.
Q Who is his mother? A Missouri Ann Graham, formerly Missouri Ann Dawson.
Q Did he come from Texas to Arkansas? A Come from Texas.
Q Did you know them in Texas? A I knew the girl.
Q You never knew them until they come to this country? A I never knew Gid.
Q When did youseo him here? A I think they come here in the fall or winter of 1894 or '5.
Q He was married then? A I think he was.
Q Brought his wife? A I think he was, I don't know.
Q Did he have any children when you first saw him? A He come to my house and I never saw hisfamily for- I don't know, for several years.
Q You understood he had a family? A Yes sir.
BY MR. McKENNON:
Q Did you mean to say '84 or '94? A '84.
Q Did you see Gid Graham ~~xxxx~~ in '84? A '84, let me study, maybe '85. BY MR. HASTINGS:
Q Did you see him in '85, are you positive on that preposition? A I think so.
Q Will you swear it? A No sir, I wont positive swear it, but I think it was, as I remember now it was; I couldn't say positive.
Q All the people Mr. Dawson that have been admitted to citizenship by courts of competent jurisdiction unless they were de-citizenised by courts of acquired jurisdiction, enjoyed the same privileges that you have narrated here about going to school and being tried in the courts? A Yes sir.
Q All that sort of thing that you have been telling here in your direct examination? A Ask me the question again.
Q I say all people who were admitted here by courts of competent jurisdiction, until they were de-citizenised by courts of like jurisdiction, enjoyed the same privileges that you did? A So far as I know they was.
Q They all drawed money and all tried in the courts as long as we had tribal courts, were they not? A Yes ser, so far as I know.
Q There was no special privilege granted to you in preference to anibody else? A None but recognized citizens of the Cherokee Nation.
Q Well you had been recognized since you were admitted? A Yes sir, I enjoyed the same privileges of native born Cherokees.
Q Well I say there is nothing special about it? A No, I don't know as there is.
Q You got acquainted with Mr. Duncan while you were up there during that hearing? A Yes sir, I was acquainted with him, knew him when I saw him.
Q Mr. Bill Ross did the examination of Dr. Baker? A Yes sir.
Q Did you file any other paper beforethe court other than your petition and then Dr. Baker's statement? A I never filed any petition ~~that~~ I there at all.
Q None whatever? A I don't remember any.
Q Well you never had occasion to file any papers before Mr. Duncan? A I got him to do some writing for me.
Q What? A Letters to my brother in Texas.
Buck Dawson? A Yes sir, E. Dawson.
Q What? A Yes sir, Buck Dawson.
Q Well is that all he did for you? A I don't remember now about it
Q Why didn't you get your attorney to do that letter writing?
A There was not any there.

Q Taylor nor Benge wasnot there then? A No sir.
Q That is what you paid the 20 or 25 dollars for , was writing this letter back to your brother? A I paid him for that claim.
Q When did you pay that? A I think I paid it, I don't exactly when, Camp Taylor paid it a year or two after I moved out here and settled where I did; might have been 2 years, I don't remember.
Q Where was Duncan living then? A I couldn't say where.
Q Was he still Clerk of this court? A No sir, not when that money was paid; that is, when Camp Tayler said he paid it.
Q You did send Camp Tayler some money? A I sent some money to him for Joel Bryant.
Q You knew Joel Bryant's address didn't you? A No, I don't know that I did, No I didn't send Camp Taylor any money, I gave it to him.
Q How much did you give him? A One hundred dollars.
Q When? A Right at that time; he claimed it from me as soon as we got ourpapers; he come onto me and dunned me for Bryant.
Q You never sent him any then after that? A No sir.
Q Did you ever see Bryant after that? A Yes sir.
Q How long after that? A I don't know, a year or two afterwards, a year I believe, my brother wrote, I wrote to my brother about paying Camp Taylor money and he went onto my brother about it and he never paid him until we moved out to this country.
Q After all that you got him to attend to your uncle Jim Dawson's and the other relatives cases? A The other parties did.

BY MR. McKENNON:

Applicants object to all that part of the witness' evidence in response to interrogatories by representatives of the Cherokee Nation which relates to the character of the evidence upon which the judgments admitting members of the James and Robert Dawson families were admitted, and to the history of the members of the Dawson family, because the same is immaterial, incompetent and irrelevant.

BY MR. McKENNON:

Q One question I omitted to ask you Mr. Dawson, as to the court at the time the judgment admitting Robert Dawson's family was rendered, who of the judges were present on that day? A They was all three of them, Wolfe, Tehee and Thompson.
Q Are you positive of that fact? A Yes sir.
Q You do not know this Andrew Dawson family who applied to the Dawes Commission for Cherokee citizenship, and who stated that they are cousins to some members of your family? A Andrew?
Q Andrew J. Dawson, who claim to be from Missouri? A How was the question?
Q You do not know them do you? A I don't know that they are any kin to us.
Q You don't know that they are related to you at all? A No sir.
Q This Mary Dawson case, do you know the members of that family? A No sir, I don't.
Q Don't know who they are? A No sir.
Q The Rebecca Dawsoncase? A I don't know her either.
Q You don't know whether they are related to you or not? A No sir.
Q If any of these persons are related to you or your family did you have any knowledge of it? A Not as I know of.
Q Joanna Barber, do you know anything about them? A They claim to be kin to us.
Q Where are they from? A They are from Texas.
Q Do you know they are related to you? A They claim to be kin.

BY MR. HASTINGS:

Q Well you swore for them before the Commission? A Yes, they claim to be kinfolks of mine.

BY MR. McKENNON:

Q Irene J. House, who is that? A That is a cousin of mine; claims to be.

BY MR. HASTINGS:

Q You testified for her didn't you before the Commission? A I think I did as well as I remember.

BY MR. McKENNON:

Q Before the Court that admitted James Dawson and family, who were the witnesses there? A Oliver Miller, from Berryville, Arkansas.
Q Who were the others? A Myself and J. Dawson and there was two other witnesses, I don't remember who they were.
Q Were they Cherokee citizens and residents of the Cherokee Nation? A Yes sir.

BY MR. HASTINGS:

Q You don't remember their names? A Which?
Q Of these other people who claimed to be citizens of the Cherokee Nation and who were witnesses? A I said about me and J. Dawson was citizens of the Cherokee Nation.
Q You only proved that Jim Dawson was a brother of Robert Dawson before the court? A Yes sir.
Q And then referred back to the decision in the court before? A We proved that they were citizens, and he knew my folks before we ever come here.
Q Was he older than Dr. Baker? A About the same age.
Q Why didn't you get Oliver Miller's testimony in the house case? A He was dead.
Q You and no member of your family in the Irene House case or the Joanna Barber case or any of those cases that were tried before the Dawes Commission in your affidavits ever made reference to the fact that Oliver Miller testified in Jim Dawson's case in '84 did you? A I don't remember about that.
Q You did make reference to the fact that Dr. Baker testified there in '83 didn't you? A I don't remember about that now.
Q You never made reference to any other witness having testified other than Dr. Baker did you? A I don't remember about it now.

BY MR. McKENNON:

Q Now just one other question: All of these papers in the original application and everything, so far as you know, in the James Dawson case, were filed before the Commission which admitted the James Dawson family, are lost or mislaid are they not? A I suppose they are, I don't know, I never saw them.
Q Have you tried to get copies of them? A Yes sir, I tried to get the original papers.

BY COMMISSION: This case is continued until 8:30 a.m., tomorrow morning, March 20th, 1902, it now being the hour for adjournment.

MARCH 20, 1902,- 8:30 a.m.- . F.M.DAWSON again on the stand, testifies as follows:

BY MR. McKENNON:

Q Where was your brother Buck Dawson raised? A In Arkansas.
Q What County? A Carroll.
Q Near what town? A Berryville.
Q Did Dr. Arthur Baker live at Berryville? A Yes sir.
Q Was your brother intimately acquainted with him for many years? A Yes sir.
Q Did he know him sufficiently to be acquainted with his character and habits of life? A Yes sir.
Q Do you know Josephine Pierce? A Yes sir.
Q Whose daughter was she? A Robert Dawson's.
Q Is she the same identical person who is called Josie Pierce, and Josie Dawson? A Yes sir.
Q Is there any other Josie Pierce or Josie Dawson or Josephine Pierce or Josephine Dawson? A I don't know but the one.
Q She was also called Josephine or Josie Kelly? A Yes, after she married; her first husband was Pierce.
Q And her second husband? A Was Kelly.

Q There was another Josephine Dawson wasn't there, Bulaska's wife? A Why they called her Joe, I suppose that's her name, I could not be positive; that was Rile Dawson's daughter, August Bulaska's wife.
Q She is much younger than your sister, Josephine, above referred to? A Yes sir, oh yes.
BY MR. HUTCHINGS:
Q Where were you born, Mr. Dawson? A Carroll County, Arkansas.
Q You know how old you are? A 42.
Q 42? A I think so.
Q How many older children were there of your father and mother than yourself? A Three.

Q Which were they? A E. Dawson, Riley Dawson and Jasper Dawson.
Q You are the fourth child and the fourth boy? A Yes sir, fourth boy.
Q Where were your father and mother married, do you know, from family history? A I think it was in Arkansas, I couldn't be positive I think they was.
Q Do you know how long your grandfather lived in Arkansas? A No sir I don't.
Q Don't know what year he came to Arkansas? A Only from statement.
Q Well what did they say about it? A I think they come there sometime in '30.
Q You know whether your father was born in Arkansas? How many of your grandfather's children were born there? A There was none of them born in Arkansas according to history and according to what he always told me, they were born in Tennessee.
Q He come therein '30 , and all the other children were born on the Hiawassa River in Tennessee, before he ever came? A That is what I think, yes sir. Now I am not positive about that. They were from Tennessee, but either Dr. Baker lived there or my folks come from there; I don't know as I remember that I ever heard my father say where he was born at.
Q In Tennessee somewhere; he said he was a good big boy when he came to Arkansas? A I don't know as I ever heard him say.
Q Do you know the difference in the ages of yourself and your three older brothers? A No I don't.
Q Don't know the time that comes in between you? A No, I don't know what; I think it is about two years though.
Q That would make E. Dawson about eight years older than you, probably? A Yes sir.
BY MR. McKENNON:
Q Did Josephine Pierce have a daughter who married Mr. Bogle?
A Yes sir.
Q What was her name? A I always knowed her by Dade Pierce; I don't know whether that is her right name or not.
Q What is Bogle's name? A John Bogle.
Q She is the child of Josephine Pierce who married John Bogle?
A Yes sir.
BY MR. HASTINGS:
Q Where did she marry John Bogle? A Near Afton.
Q When? A I couldn't state.
Q About when? A You have got a copy of the marriage license.
Q When did Josephine Pierce come to the Cherokee Nation? A '83.
Q Has she lived here continuously since that time? A Up until her death; she is dead.
Q Any of her children come with her at that time? A Yes sir.
Q And have they lived here continuously since that time? A Yes sir, except Bill Pierce, he went to Colorado and died.

J. C. STARR, being first duly sworn and being examined, testified as follows:
BY MR. McKENNON:
Q Your name is J. C. Starr is it? A Yes sir.
Mr. Starr, was that instrument taken by you, or before you?
(Showing witness a document.)

A Yes sir.
Q Where? A At the residence of S. H. Benge, near Fort Gibson.
Q When? A On the 15th day of this month.
Q What day of the week was that? A On Saturday.
Q Is that the dayit was taken? A Yes sir.
Q Did you go there on Saturday to take this? A Yes sir.
Q Then when Judge Benge stated on Tuesday that it was taken "yesterday" meaning on Monday, the 17th, he was mistaken, was he? A It was taken Saturday, the 15th.
Q Was he mistaken or not? A It was not taken then.
Q Then his statement made on Tuesday the 18th that it was taken on "yesterday", meaning Monday, the 17th, was not correct, was it? A I think not, because I was there, and it was taken on the 15th.
Q And it was taken on the 15th, you arepositive it was taken on the 15th? A Yes sir.
Q Then of course his statement couldnot be correct? A I guess not.
BY MR. HASTINGS:
Q He was justmistaken about the date, wasn't he? A Yes sir.
BY MR. McKENNON:
Q Did you tell Charles T. Moore who is now present, on last Tuesday that they sentyou out there on Monday to take that? A No sir.
BY MR. HASTINGS:
Q I sent you there last Saturday? A Yes sir.
Q And you went there at my direction, didn't you? A Yes sir, and come back Saturday night.

ROBERT L. DAWSON, being first duly sworn, and being examined testified as follows:
BY MR. McKENNON:
Q What is your name? A My name is Robert L. Dawson.
Q What is your age? A My age is something close to 30 yearsold, I am 29 past.
Q Are you a son of E. Dawson, commonly known as Buck Dawson? A Yes sir.
Q I will ask you if you will examine this letter sent with the enclosure and state whether or not you found that among the papers of your father after his death? A (Hands letter to witness who examines it) A Yes sir, I found this amongst the papers of my father. He always kept all of his own papers, and me looking over them I saw this letter.
Q Has that been in your custody ever since you found it? A Yes sir, if that's the letter that was in the envelope.
Q Well that's what it is, you can tell whether ir is or not. (Witness further examines letter) Q That purports to be a letter from Samuel H. Benge, does it not, to your father? A Yes sir. (Here applicants' attorney hands letter and envelope referred to to attorneys for Cherokee Nation.)
BY MR. McKENNON: I want to offer this letter in evidence in this case; it is a letter signed by ~~Samuel~~ S. H. Benge, attorney at law, dated ~~Ft Gibson~~ Fort Gibson, C. N. , Jan. 13,1883. Addressed to Mr. E. Dawson, Esq.; together with the envelope, in which it was enclosed, withthe card of C. H. Tayler upon it, attorney at law, Tahlequah, Indian Territory, and postmarked Tahlequah, Ind. T., January 13.
BY MR. HUTCHINGS: The Nation objects to the introduction of this letter for the reason that S.H.Benge is living and has testified in this case, and his handwriting should be either proven or denied by himself.

G. W. BENGE, being first duly sworn, and being examined, testified as follows:
BY MR. McKENNON:
Q What is your name? A G. W. Benge.
Q Are you a son of Samuel H. Benge? A Yes sir.

Q Do you know his handwriting? A I believe so.
Q Is that his handwriting? (Shows witness letter before referred to
A Yes sir, it is in him either his or a resemblance of his.
Q To the best of your knowledge and belief is that his letter?
A Yes sir.

BY MR. McKENNON: Now we offer it in evidence.

BY COMMISSION: (Reading letter)

"Fort Gibson, C. N.,
Jan 13th, 1883.

Mr. E. Dawson, Esq.,

Dear Sir:- I will write this note to inform you that your case came off before the Court on Citizenship on the 11th inst, and was decided in your favor, so you all are citizens of this Nation. F. M. Dawson was furnished with a coppy of the decision at the court. He will write to you allso. You will please send me fifty dollars as my fee in your case according to contract. Send it to Fort Gibson, Cherokee Nation.

Respeefully yours,
S.H.Benge,
Attorney at law."

Enclosed in envelope, as follows:
Card in upper corner, left hand:
"Return in ten days to C.H.Tayler,
Attorney at Law,
Tahlequah, Ind. Ter."
Addressed: " Mr. E. Dawson,
Henryetta,
Clay Co., Texas."

Post-marked: " Tahlequah, Jan 13 Ind T."

ROBERT L. DAWSON, -re-called and further examined, testified as follows:

BY MR. McKENNON:
Q Now examine that and see if that is also a paper which you found among your father's papers after his death? (Hands papers to witness) A That is the same letter that I found.
Q Among the same that you found the Benge letter? A Yes sir.

BY MR. McKENNON: This is a latter purporting to have been written by J. M. Bryan, to E. Dawson, dated at Chouteau Station, Cherokee Nation, and not dated, which we offer in evidence. (Applicants' attorney hands said paper to Nation's attorneys.)

Q Mr. Bryan is dead is he not? A I think so.

BY MR. HUTCHINGS: We have no objection.

BY COMMISSION: (reads letter)

"Chouteau Station, Cherokee Nation.
I. T., M. K. & T. R.R.

Mr. Dawson:

Dear Sir:-

I am in receipt of your favor of the 30th inst in regard to our contract.

After I had got the claim so there would be little more to do I employed Campbell Taylor to answer for me when the case came up, for which I was to pay him $20 out of my fee. This is all the action I had in the matter with Taylor.

I saw Taylor in Washington last month, and he told me that your brother had made another contract with him, and paid him, or that you was to pay him $100- and that you had offered him a check on some bank in Texas.

That $100-matter with Taylor, I have nothing to do with,

nor couldn't have if I wanted to.

I hope Mr. Dawson this ~~xxxxxx~~ will explain the matter fully.

And I am satisfied that you are apprised of the earnest work I done for you. Please write to me.

Very respectfully,

Very truly,

J. M. Bryan."

Q I will ask you if you knew of your father having paid Bryan that money? A Yes sir; paid him a horse and someother money.

BY MR. HUTCHINGS:

Q How old was your father when he died? A No, I don't know whether I know his age or not.

Q If you don't know you can't say? A I wouldn't have no reason to know his age; never asked him his age; of course I guess my mother knows.

Q Never had occasion to talk about his age at all? A Oh I have heardh'm speaking of his age at different times, but then I never paid enough attention to it.

GID GRAHAM, being first duly sworn and being examined testified as follows:

BY MR. McKENNON:

Q What is your name? A Gid Graham.

Q How old are you? Mr. Graham? A I am 35 years old.

Q How long have you been living in the Territory? A I came out here in 1887 or '88.

Q To the Cherokee Nation? A Yes sir.

Q How long have you been living in the Cherokee Nation, what year was that '87 or '8? A Yes sir.

Q Have you resided here continuously from that time ever since in the Territory? A Yes sir.

Q How long did you live in the Cherokee Nation? A About 6 years.

Q Where did you go then?A Wagoner.

Q In the Creek Nation? A Yes sir.

Q And been residing there ever since? A Yes sir.

Q In business? A Yes sir.

Q Have youall the while beenr ecognized as a citizen of the Cherokee Nation? A Yes sir.

Q Mr. Graham, do you know ~~xxxxx~~ Judge Samuel H. Benge? A Yes sir.

Q Did you have a conversation with him in Fort Gibson about September of 1900? A Well as to the exact time I couldn't say, it was sometime about the time that the Dawes Commission were at Sallisaw, or possibly a little later, somewhere about there.

Q Taking the census of the Cherokees? A Yes sir.

Q At that time had the question of the validity of the judgment of the Cherokee citizenship commission admitting Robert Dawson and family been calledin question? A Yes sir.

Q Did you talk to him about the facts concerning the obtaining of that judgment? A I did.

Q What did he tell you about it; well I will just ask you, did he then and there tell you that that judgment was regular and all right nothing wrong with it? A He did.

BY MR. HUTCHINGS:

Q You were looking around for testimony at that time, Mr. Graham, were you? A How was that?

Q You were looking around for testimony at that time, expecting this case to be questioned? A Since the validity of that judgment had been attacked by the authorities of the Cherokee Nation, I thought it was well to look into the matter.

Q And he told you the judgment was all right? A Having known that Mr. Benge was connected with the case, I saw him in Fort Gibson, subsequent to that time and asked him about it, if there was anything

wrong about the matter, and also that I might want his affidavit concearning the matter, and I also I think maybe wrote to him; possibly prior to that, I am not sure as to the writing, but I think possibly I did.
Q Did he tell you he would make an affidavit? A I don't think at that time that I asked him for an affidavit; I thought as he lived right near here I would use him in person; he assured me that everything was all right.
Q Your mother was Missouri Dawson was not she? A Yes sir.
Q Her name was Missouri Graham when she was re-admitted to citizenship? A Yes sir.
Q And was not Missouri Dawson as named in that judgment? A Yes sir
Q Do you know whether the other children named in there had married and changed their names also at the time they were admitted? A There were not any of them married.
Q Ella Dawson was your aunt? A Yes sir.
Q was she married at that time? In 1883? A Yes sir.
Q Melvina Dawson, was she married at that time? A Yes sir.
Q And the fourth one you have mentioned, Missouri Dawson, was your mother? A Yes sir.
Q Can you give us the exact date of your birth? A Yes sir.
Q Do so, please? A January 21,1867.
Q And you came to the Territory when? A In 1887 or 1888.
Q You can't make that any more definite? A Well sir, it has been a good while ago, and I didn't have anything to cause me to.
Q Well I just want to know whether you did have or not? A No sir.
Q When were you married? A 1886.
Q You were married prior to coming here? A Yes sir.
Q Your first child born away from here? A Yes sir.
Q What is its name? A John W.
Q '86 you were married, and he was born about the spring of '87? A Somewhere in 1887, I don't remember.
Q Prior to your coming here? A Yes sir.
Q That is the ~~knowledge~~only child you had that was born away from here? A No sir, Julius.
Q Julius was not born in the Territory? A No sir.
Q And prior to the time of your removing to the Territory? A Yes sir.
Q These are the only children born out? A Yes sir.
BY MR. McKENNON:
Q Do you know Campbell Taylor? A Yes sir.
Q I will ask you if about February 1901, he came to Wagoner, and sent his son to have you come to the hotel at night where he was, and if he then and there said to you "You people are on the doubtful list, and if you will give me five hundred dollars I will make it all right and see that you are enrolled," and if you don't I will see that you don't get on".? A Well now as to the first part of that question, where you say he sent his son; that is an error; I don't know whether he came to my house or sent some one; when I returned home that evening my wife told me there was some one there to see me, and was at the city hotel at Wagoner, and said come down and see him; I went down there; I never had met Taylor; he introduced himself to me and stated what his business was ; asked me if I was on the doubtful list, etc., to which I replied that we were; he askedme if I didn't want to employ him, stating that if we would give him, our family would give him five hundred dollars he would see that we were placed on the rolls all right, but if we refused to give him five hundred dollars that he would use his influence against us and see that we were rejected.
Q You never had met him before, or had any communication with him? A I never met him before; as to the communication; I mayhave written him something about his affidavit as to the validity of that judgment, I can't say aste that. He said in his testimony that I did; I don't know whether I did or not now.

BY MR. HUTCHINGS:
Q You knew he was the attorney in the case, originally? A After looking at the records I did.
Q I mean you knew it at the time you wrote to him about the affidavit; that was the reason why you thought he would know something? A Certainly.
Q He never told you he was going to swear against you or threatened to tell anything that was not true? A He just simply said unless we gave him that five hundred dollars he would see we were all put off of the rolls.
Q Said he would use his influence against you, that is what he said? A Yes sir.
BY MR. HASTINGS:
Q You don't deny writing to him then for the affidavit? A I don't say I did or I didnot; I neither affirm it or deny the question.
Q You went to Captain Benge and also wrote him with reference to what he knew about the case? A I don't know whether I wrote him or not, I said I was under the impression I wrote his son.
Q You went to see Aaron Butler, who was interpreter before that court that admitted you? A Yes sir.
Q And you went with Aaron Butler to see Jim Smith, attorney before that court? A Yes sir.
Q And you either wrote or went to see everybody you knew of that was before that court then? A Yes sir.
Q That shows you used considerable activity? A Yes sir, I used such activity as was to my interest.
BY MR. McKENNON:
Q That was all after the representatives of the Cherokee Nation objected to the enrollment of the Dawson family and by reason thereof such as had appeared before the Commission had been placed upon a doubtful card? A Yes sir.
Q Then you began to look up the evidence to see what there was in it? A Yes sir.
Q As Mr. Hastings has stated? A That's right.
BY MR. McKENNON:
Q You are a grandson of James Dawson? A Yes sir.
Q The old gentleman? A Yes sir.
Q About what was his age when he was admitted to citizenship in the Cherokee Nation, in 1884, wasn't it? A Yes sir, well I can't be exact as to that.
Q Well as nearly as you can? A He was somewhere about 70 or 72, years of age.
Q Well what other James Dawson did youknow belonging to the families, either one of these families, Robert Dawson family or the JamesDawson family? A I never knew of but two JamesDawsons.
Q Who were the others? A Dr. James R. Dawson, who is present and standing right here; my grandfather, James Dawson.
Q Was therein '84 any James R. Dawson 35 or 40 or 45 years old, that you know of, belonging to theirh one of these families? A No sir.
Q Do you know how old Dr. James R. Dawson was at that time? A Jame Dawson?QNo I am speaking of Dr. James R. Dawson? A Oh, how old he was, no sir, I do not.
BY MR. HUTCHINGS:
Q Do you know who was here attending to your mother's citizenship case at that time, at the time they were admitted? A Yes sir, James Low and Bill Jackson, son of Ellen Jackson.
Q Who was W.A.Dawson? A That is Wilburn, my uncle.
Q Was he here? A I don't know sir.
Q You were not here any of the time? A No sir.
Q You knew your grandfather then, you have lived in the same neighborhood with him? A Yes sir, I knew him well.
Q He didn't die for a year or two after that did he? A After when, Mr. Hutchings?
Q After this admission to citizenship? A No sir, he didn't die I think until '91 or '90, several years after.

Q Very old man when he died? A Yes sir.
BY MR. McKENNON:
Q About what age? A He was approximately about 80 years old.
BY MR. HUTCHINGS:
Q When he died?A Yes sir.
BY MR. HASTINGS:
Q That about 1891? A I think so; yes sir.
BY MR. McKENNON:

Applicants object to the testimony of the witness elicited by interrogatories of Counsel for the Cherokee Nation relating to his family, their history, etc, as being immaterial, irrelevant and incompetent.

JAMES R. DAWSON, being first duly sworn, and being examined, testified as follows:
BY MR. McKENNON:
Q Your name is James R. Dawson? A Yes sir.
Q Where do you live? A Afton, Indian Territory.
Q Whatis your age? A 45.
Q You are a physician are you not? A Yes sir.

Q Was James Dawson, whose family was admitted in 1884, an uncle of yours? A Yes sir.
Q Do you know what his age was at that time? A No sir, I do not, only approximately.
Q State as nearly as you can? A At the time of the admission?
Q Yes sir. A About 70 , I don't know exactly.
Q How old was he when he died? A I would suppose he was about 78.
Q What was your age in 1884? A I am 45.
Q What year were you born, Doctor? A I was born in '55.
Q Must have been '56? A Yes sir, that's right.
Q What was your age then? A In '84?
Q Yes sir? A About 28.
Q Were you present at the time that James Dawson family was admitted, or at any time while their case was pending before the Cherokee citizenship commission? A Not while the James Dawson case was , no sir.
Q You were present during your father's case? A I was there at the time.
Q When was that? A The dates I disremember; when the case first come up, I disremember the exact date.
How long were you there? A I was there about a week.
Q Was that when it first come up you say? A Yes sir.
Q Nothing was done? A No sir.
BY MR. HUTCHINGS:
Q You never saw Dr. Baker? A Yes sir.
Q Did he and your uncle Jimmie used to talk about how they played together when they were boys? A My uncle Jim and Dr. Baker talk?
Q Yes? A I never heard them saw them together.
Q They were about the same age? A Yes sir, I believe Dr. Baker was 15 years older probably.
Q Dr. Baker musthave been mistaken about his own age? A Guessing, that's all I know about his age.
Q The Doctor had been paralysed, rather a decrepit looking man at the time he was over here at this citizenship business? A No sir not as I know anything about.
Q He was near about 70 then? A I wouldn't tell you, he was an old looking man.
Q Your uncle Jimmie was about 70? A Yes sir.

TESTIMONY ON BEHALF OF THE CHEROKEE NATION.

W.W.HASTINGS, being first duly sworn, and being examined testified as follows:

BY MR. HUTCHINGS:

Q State your name? A W.W.Hastings.
Q Residence? A Tahlequah, age 35.
Q You are attorney for the Cherokee Nation in the general prepration of these cases? A Yes sir.
Q Just state how it happened that you summoned Mr. Campbell Taylor, and what occurred between you with reference to his testimony?
A Well there had been some talk , as the testimony here indicates, that there was perhaps fraud in the admission of this family, and by agreement with counsel on the other side, and the Commission, this case was set for the 17th dayof March, and some short time prior to that, as the attorney for the Nation I began to make some preparation or inquiry into the case, and I wrote a great many letters around to different people and among them I wrote C.H. Taylor to come downhere. I don't think in that letter that I ~~dxkk~~ told him what I wanted with him. I don't think I told him the case that I wanted him to testify in; that is my recollection now. Mr. Taylor prior to that time, neither directly nor indirectly, so far as I know, ever gave me any information voluntarily against this family, or ever said anything that would lead me to believe that he knew anything of a fraudulent character connected with it. But I summoned him; perhaps the fact that I knew he had been connected with them in some way and that I perhaps also would get some information from him. Well he came in response to a letter that I wrote, and I took him up to my office. I talked to him quite a long while. He was exceedingly reluctant about giving any testimony whatever, he told me first and last that he didn't intend to testify before this Commission. He told me he had been attorney for these people, and he didn't believe he could be compelled to testify, and that is he was put upon the stand he would claim that privilege, and he didn't believe I could force him to testify. I talked to him at some considerable length; I asked him what he knew about it; of course he for a very long time declined to tell me; and what information I did get from him was by piecemeal. He was exceedingly reluctant all through the interview to give any information. I asked him finally though that if the Court compelled him to testify when he got before the Commission, if he would tell the facts about it, and he said that he would. I told him then that I would subpoena him.

Well we talked quite a good while and finally after always telling me that he intended to claim that privilege, and never wanting to testify, he detailed to me the facts just as he told them on the stand; I don't believe there is the slightest variation, except that he perhaps was not so full at that time and it was told by piecemeal, but I got all those facts out of him, or very nearly all those facts out of him. He may have elaborated a little more here by examination; but he never voluntarily gave me any information at all, either directly or so far as I know indirectly. I don't think he sent any one to me. I got his name because I ~~h~~ardhe was connected with the case, and perhaps knew something about it, like I did a great many other people, some of whom I didn't bring, because they didn't know what I supposed they did know about the case.

With reference to S.H.Benge, I want to state that he never voluntarily gave me any information at all about this case, nor did I know thathe knew anything in connection with this case until I sent J. S. Starr over to S.H.Benge's place to take his affidavit on Saturday, March 15, in the W.H. and J.W.Shoemake case, and their descendants. I had heard that Mr. Benge knew some important facts in connection with the Shoemake case and I sent him over there then

to take that affidavit; and when Mr. Starr came back he told me that he knew some facts also in connection with these other cases, and I was surprised to find he had instead of one affidavit, two in the Shoemake case, that he also had another affidavit in the Dawson case. That is the first information I had that Mr. Benge knew anything whatever in connection with the Dawson case, and therefore he never voluntarily, either directly or indirectly gave any information prior to that time to me.

I impressed upon Mr. Taylor that the Nation only wanted the absolute truth in this matter; that it was not seeking anything else but the truth, and didn't want him to tell anything else but the truth.

I want to say again that after he was on the stand and left that evening, and after Captain McKennon, of Counsel for the family, had indicated his willingness for Mr. Taylor to testify, that he went over all of these facts that he testified to on the stand subsequent to that time in the presence of J. C. Starr in my office. I simply wanted to go on the stand for the purpose of showing that Mr. Taylor hadn't voluntarily ~~ex~~ given me any information, and I make this statement for that purpose.

BY MR. McKENNON:

Q You had no power to compel him to give you any information at that time at all did you? A No sir, none other than the pursuation that I brought to use.

Q He therefore did it simply upon your pursuation? A Yes sir.

Q You knew he had been acting as attorney for these parties?

A Yes sir, I had seen from the record that he did too.

Q And he told you so? A Yes sir.

BY COMMISSION: The attorneys for the applicant and the representative of the Cherokee Nation will be granted thirty days from the receipt of the transcript in this case in which to file a brief in this case with the Commission.

I, M.D.Green, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

M D Green

Cherokee Nation Indian Territory
Tahlequah District.
To whom this may concern.
This is to certify that I C. W. Tinney of Wodeas Ind. Ter. a Bona-Fide Citizen of the Cherokee Nation, and forty five years of age and further states that I was well and personally acquainted with Buck Dawson (deceased) in the year of 1881 in Clay County Texas, and during said year in the course of a conversation Buck Dawson stated to me in the presents of one Bill Smith, one Jiles Flippin and one O. Preston that if he was an (Injun) meaning an Indian he would not be punching cattle, that he would have stockmen coming his grass (meaning cattle) and getting the money, and he further said to Jiles Flippin that he was thinking of proving up his right in the Chickasaw Nation and getting some grass, and I then said to him why dont you go to the Cherokee Nation amoung Gods

people and proove your rights up there, and he said we they all white like you, meaning the people of this Nation, and Giles Flippin answered and said that the majority of them were, and Buck Dawson then said to Giles Flippin let us go up and proove up our rights money will do any thing and we have it; and Giles Flippin said "Hell" I am going up; Brother John is getting ready to go now; Dawson then said to me "give me reference to some of your best Cherokee lawyers" and I then gave him the name of L. B. Bell (Wooley) and I further know that said Dawson was generally known as a white man in the State of Texas.

Bill Smith's Post Office is Woodward Oklahoma Territory. C. D. Kenney.

Witness to the signature of Kenny.

A B Jones.

J. J. Brown

March 6th 1902.

Mr Chambers & Hallie O Chambers with
Bionnie Davis – comms law wife of Mr
Chambers.

Ware, Docket.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., April 2, 1902.

In the matter of the application of Francis Marion Dawson et al for enrollment as citizens of the Cherokee Nation, he being sworn and examined by the Commission, testified as follows:

Q What is your name? A Francis Marion Dawson.
Q How old are you? A Soon will be sixty years old.
Q What is your postoffice address? A Afton Now, it used to be Cacuma.
Q What was the name of your wife? A My first wife was Julia Ann Howard
Q She was a white woman? A Yes sir.
Q When were you married to her? A I think it was the 8th of January, 1864.
Q Where were you living at that time? A In Arkansas.
Q Who married you? A A man by the name of Dave Sturdy.
Q Was he a preacher? A Yes sir.
Q A Minister of the Gospel? A Yes sir.
Q Did you and she live together as husband and wife up to the time of her death? A Yes sir.
Q Did you have any children by her? A Yes sir.
Q What are their names? A William R. Dawson.
Q The next one? A Francis Marion Dawson Jr.
Q The next one? A Johnnie.
Q The next chil ? A Elizabeth
Q The next one? A Arizona Allred.
Q Those are all the children you had by your first wife? A Yes sir.

Joseph R. Dawson, being sworn and examined by the Commission, testified as follows:
Q What is your name? A Joseph R. Dawson.
Q How old are you? A I will be 51 the 18th day of June.
Q Are you related to the applicant here in this case, Francis M. Dawson? A Yes sir
Q How are you related to him? A A brother.
Q Did you know his former wife, Julia? A Yes sir.
Q Is she living or dead? A She is dead.
Q Was she a Cherokee or white woman? A I couldn't say what, they married in the states.
Q Do you know when he was married to her? A Yes sir.
Q When was it? A About the close of the war.
Q Who married them? A Parson Sturdy.
Q Were you present when they were married? A Yes sir.
Q Did they continue to live together as man and wife up until the time his wife Julia died? A Yes sir.

John K. Stevens, being sworn and examined by the Commission, testified as follows:
Q What is your name? A John K. Stevens.
Q How old are you? A 58 years old.
Q What is your postoffice address? A Afton.
Q Are you acquainted with the applicant here in this case, Francis M. Dawson? A Yes sir, we call him, Bud Dawson.
Q How long have you known him? A My first acquaintance with him was in 181.
Q Did you know his first wife Julia? A Yes sir.
Q Do you know whether or not they were married? A Yes sir, they were married.
Q Were you present at the marriage? A No, I wasn't present at the marriage.
Q Did you see them soon after their marriage? A Yes sir.
Q Did you continue to know them for any long h of time afterwards? A I knowed them as long as she lived.
Q During the time you knew them did they live together as husband

Z-F.M.D.

and wife? A Yes sir.
Q Were they recognized in the community as such? A Everybody recognized them.

This testimony will be filed with and made a part of the record in thefollowing Cherokee cases:
Arizona Allred et al D-835; John Dawson D-580; William R. Dawson D-581; Lizzie Dawson D-584 and Francis M. Dawson Jr. D-586.

—o—

I, the undersigned stenographer to the Commission to the Five Civilized Tribes, do hereby certify that I recorded the proceedings in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

E. G. Rothenberger

Q# 324

Cher- D-324.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes,
Muskogee, I.T., October 20, 1902.

In the matter of the application of Francis M. Dawson for enrollment of himself and his children Lyly, Ray, Jessie, Jacob L., Hugh A., and Laura A. as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Katie Dawson, as a citizen by intermarriage of the Cherokee nation.

Francis M. Dawson called as a witness, being first duly sworn by the Commission, testified as follows:

Q What is your name? A Francis M. Dawson.
Q How old are you? A 60 years.
Q What is your postoffice address? A Afton, I. T.
Q Are you a Cherokee by blood? A Yes sir.
Q Have you been living in the Cherokee nation ever since you were admitted in 1883 A Yes sir.
Q What is your wife's name? A Katie M. Dawson.
Q Has she an M in her name? A Katie Dawson is the way it is put down.
Q Is Katie Dawson a white woman? A Yes sir.
Q Is she claiming a right to be enrolled as a Cherokee by intermarriage? A Yes sir.
Q She claimes her citizenship through you? A Yes sir.
Q When were you married to her? A I don't know exactly; 1879 or 80; I have got the marriage certificate here.
Q Was it before your admission to citizenship? A Yes sir.
Q Is she your first wife? A No sir.
Q How often had you been married before you married Katie? A Twice before I married Katie.
Q Were your former wives white women? A Yes sir.
Q Were they both dead before you married Katie? A Yes sir.
Q Had Katie ever been married before she married you? A No sir.
Q You was her first husband? A Yes sir.
Q Have you and Katie been living together in the Cherokee nation ever since you were married? A Yes, ever since we was admitted.
Q You never lived anywhere else? A No sir.
Q You and she are living together today? A Yes sir.
Q How many children have you? A Six; one is dead and we didn't put it on.
Q Are they all living with you? A Yes sir.
Q What is the oldest one's name? A Lyly

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Frances R. Lane upon oath states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the testimony in the above entitled cause, and that the above and foregoing is an accurate transcript of her stenographic notes thereof.

Frances R. Lane.

Subscribed and sworn to before me this October 25th, 1902.

B. L. Jones
Notary Public.

In the matter of the application of Francis M. Dawson, et al., consolidating:

Group 1	Cherokee	D 324, 380, 581, 584, 588 and 855.
" 2	"	D 350, 352, 356, 365, 482 and 402.
" 3	"	D 578, 360 and 530.
" 4	"	D 408, 409, 431, 471, 472 and 479.
" 5	"	D 364, 475 and 526.
" 6	"	D 518.
" 7	"	D 832, 833 and 834.
" 8	"	D 435, 604, 605, 608, 609, 617, 626 and 627.
" 9	"	D 23, 35, 836, 1124, 1125, 1126, 1127 and 1128.
" 10	"	D 395, 476, 508, 830 and 847.
" 11	"	D 839.
" 12	"	D 405, 406, 715, Cherokee R 12, and R 13.
" 13	"	D 343, 391, 522, 737, 845 and 979.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Francis M. Dawson, et al for enrollment as Cherokee citizens, consolidating the applications of,

Francis M. Dawson et al	Cherokee	D.	324
John Dawson,	"	D	580
William R. Dawson,	"	D	581
Andrew C. Atkins, et al	"	D	584
Francis M. Dawson, Jr.	"	D	588
Arizona Allred, et al	"	D	835
Samuel R. Dawson, et al	"	D	350
Robert Dawson,	"	D	352
Albert H. Dawson, et al	"	D	358
August Bulawsky, et al	"	D	365
John W. Dawson, et al	"	D	482
Katie Newman	"	D	402
John Dawson, et al	"	D	578
Thomas P. Dawson, et al	"	D	360
Orle H. Dawson, et al	"	D	530
Robert Pierce, et al	"	D	408
William Pierce,	"	D	409
Charles E. Pierce,	"	D	431
Ona Gray, et al	"	D	471
Effie Pierce,	"	D	472
John S. Bogle, et al	"	D	479
Joseph R. Dawson, et al	"	D	364
Wilborn Dawson,	"	D	475
Charles T. Moore, et al	"	D	518
James R. Dawson, et al	"	D	526
Henry A. Blasingame, et al	"	D	832
Elbert L. Blasingame, et al	"	D	833
James R. Blasingame, et al	"	D	834
Martin L. Patterson, et al	"	D	435
William C. Dawson, et al	"	D	604
Robert L. Dawson,	"	D	605
Elbert B. Dawson, et al	"	D	606
Richard W. Dawson, et al	"	D	617
Ella L. Spickerman, et al	"	D	626
Francis M. Dawson,	"	D	627
Sarah J. Dawson,	"	D	609
John W. Graham, et al	"	D	23
Gideon Graham, et al	"	D	35
Mathew A. Painter, et al	"	D	836
Charles T. Bradshaw, et al	"	D	1124
Joe E. Graham, et al	"	D	1125
John F. Graham, et al	"	D	1126
Joe Willie Neal	"	D	1127
James M. Graham, et al	"	D	1128
Green W. Jackson, et al	"	D	395
James H. Harmon, et al	"	D	476
Toshie A. Jackson,	"	D	508
Lizzie Jackson, et al	"	D	830
William C. Lenox, et al	"	D	847
James Lowe, et al	"	D	839
Millie T. Dawson,	"	D	405

Texanna Woolley, et al.,	Cherokee	D 406
Henry T. Richardson, et al.,	"	D 715
Etta Brauer,	"	R 12
Melissa A. Dawson,	"	R 13
Alonzo M. Fishback, et al.,	"	D 343
Hiram F. Weddle, et al.,	"	D 521
William D. Douthitt,	"	D 522
Florence Morgan, et al.,	"	D 737
John E. Fishback,	"	D 845
George A. Mabry, et al.,	"	D 979

D E C I S I O N

It appears from the record herein that applications were made to this Commission at the times and places hereinafter mentioned for the enrollment of the following named persons as citizens of the Cherokee Nation:

D 324 By Francis M. Dawson, son of Robert Dawson, at Vinita, Indian Territory, on September 17, 1900, for the enrollment of himself and his minor children, Lula, Ray, Jessie J., Jacob L., Hugh A. and Laura A. Dawson as citizens by blood, and for the enrollment of his wife Katie Dawson as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on April 8, and October 20, 1902.

D 580 By John Dawson, at Nowata, Indian Territory, on October 15, 1900, for the enrollment of himself as a citizen by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on July 1, 1902.

D 581 By William R. Dawson, at Nowata, Indian Territory, on October 13, 1900, for the enrollment of himself and his wife, Fannie Dawson as citizens by blood. Fannie Dawson has been differently classified and is not embraced in this decision.

D 584 By Andrew C. Atkins, at Nowata, Indian Territory, on October 15, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Lizzie Atkins and his minor children, Arthur, Edna E., Edward C. and George J. F. Atkins as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 10, 1902.

D 588 By Francis M. Dawson, Jr., son of Francis M. Dawson and grand son of Robert Dawson, at Nowata, Indian Territory, on October 15, 1900, for the enrollment of himself as a citizen by blood.

D 835 By Francis M. Dawson, Sr., at Chelsea, Indian Territory, on November 20, 1900, for the enrollment of his daughter Arizona Allred and his grand-son William C. Allred as citizens by blood.

D 350 By Samuel R. Dawson, at Vinita, Indian Territory, on September 19, 1900, for the enrollment of himself and his two minor children August and Mate Dawson, as citizens by blood, and for the enrollment of his wife Catherine Dawson as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, October 3, 1902.

D 352 By Robert Dawson, at Vinita, Indian Territory, on September 19, 1900, for the enrollment of himself as a citizen by blood.

D 358 By Albert H. Dawson, at Vinita, Indian Territory, on September 19, 1900, for the enrollment of himself and his minor children Ralph H., Alford and Cecil Dawson as citizens by blood, and for the enrollment of his wife Sarah F. Dawson as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on July 21, and October 3, 1902.

D 365 By August Bulawsky, at Vinita, Indian Territory, on September 20, 1900, for the enrollment of himself as a citizen by intermarriage, and for his wife Josephine, and his minor children Dora, Ida, Annie, Blanche, May and Oscar Bulawsky, as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 6, 1902.

D 482 By John W. Dawson, at Vinita, Indian Territory, on October 1, 1900, for the enrollment of himself as a citizen by blood, and for the enrollment of his wife Nannie as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 3, 1902.

D 402 By Charles J. Newman, for the enrollment of his wife Katie Newman as a citizen by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on March 18, 1902.

D 578 By John Dawson, at Nowata, Indian Territory, on October 15, 1900, for the enrollment of himself and his minor children Robert B., Iola M., Lemuel H., Rosa B., Charles B., Hattie J., Jennings B. and James U. Dawson as citizens by blood, and for his wife Sarah J. Dawson as a citizen by intermarriage. On November 20, 1901, an affidavit was filed for Vergal C. Dawson, a ninth child of the applicant. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, October 20, 1902.

D 360 By Thomas P. Dawson, at Vinita, Indian Territory, on September 20, 1900, for the enrollment of himself and his minor child Marice J. Dawson as citizens by blood.

D 530 By Orle H. Dawson, at Vinita, Indian Territory, on October 4, 1900, for the enrollment of himself and his minor child, Burr R. Dawson as citizens by blood. On October 31, 1902, a birth affidavit was filed for James W. Dawson, a second child of the applicant.

D 408 By Robert Pierce, at Vinita, Indian Territory, on September 24, 1900, for the enrollment of himself and his minor child Myrtle as citizens by blood, and for the enrollment of his wife Nellie as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 3, 1902. On January 9, 1902, an affidavit was filed showing the birth of Arthur Pierce, a second child of the applicant.

D 409 By William Pierce, at Vinita, Indian Territory, on September 24, 1900, for the enrollment of himself as a citizen by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on July 21, 1902.

D 431 By Charles E. Pierce, at Vinita, Indian Territory, on September 25, 1900, for the enrollment of himself as a citizen by blood.

D 471
D 472 By John B. Gray, at Vinita, Indian Territory, on September 29, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Oma Gray, his minor child, Cecil Gray, and his sister-in-law, Effie Pierce (now Effie Akins), as citizens by blood. John B. Gray is differently classified and is not embraced in this decision. Further proceedings were had in the matter of this application at Vinita, Indian Territory, on October 4, 1900, and at Muskogee, Indian Territory, on July 21, 1902. On February 18, 1902, an affidavit was filed showing the birth of Velton Gray, a second child of the applicant.

D 479 By John S. Bogle, at Vinita, Indian Territory, on October 2, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Nancy J., and his minor children, James E., Edna E., John H., Marvin R. and Claud Bogle as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 9, 1902. On October 31, 1902, a birth affidavit was filed for Nancy Edith Bogle, born since the date of this application.

D 364 By Joseph R. Dawson, at Vinita, Indian Territory, on September 20, 1900, for the enrollment of himself and his five minor children, Clarence E., Council J., Elmer A., Cleo, and Rufus T. Dawson, as citizens by blood, and for the enrollment of his wife, Florence Dawson, as a citizen by intermarriage. Further proceedings were had in the matter of said application at Vinita, Indian Territory, on October 19, 1901, and at Muskogee, Indian Territory, on October 3, 1902. On October 19, 1901 an affidavit was filed showing the birth of Edgar Dawson, a sixth child of the applicant.

D 475 By Wilborn Dawson, at Vinita, Indian Territory, on September 29, 1900, for the enrollment of himself as a citizen by blood.

D 518 By Charles T. Moore, at Vinita, Indian Territory, on October 4, 1900, for his enrollment as a citizen by intermarriage, and for the enrollment of his wife, Mollie, and his five minor children, Nora, Walter, Clara, Ora and James W. Moore as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on March 18, and October 10, 1902, and on March 17, 1902, an affidavit was filed showing the birth of Edna E. a sixth child of the applicant.

D 526 By James R. Dawson, at Vinita, Indian Territory, on October 4, 1900, for the enrollment of himself and his three minor children, Vinnie D., Ermine C. and Edwin C. Dawson as citizens by blood, and for the enrollment of his wife, Martha A. Dawson, as a citizen by intermarriage. Further proceedings were had in the matter of said application at Vinita, Indian Territory, on October 5, 1900, and at Muskogee, Indian Territory, on October 3, 1902, and on September 13, 1901, an affidavit was filed showing the birth of Ancil F. Dawson, a fourth child of the applicant.

D 832 By Henry A. Blasingame, at Chelsea, Indian Territory, on November 19, 1900, for the enrollment of himself and his minor child, Vinnie C. as citizens by blood, and for the enrollment of his wife Birdie J. as a citizen by intermarriage. Birdie J. Blasingame is differently classified and is not embraced in this decision.

D 833 By Elbert L. Blasingame, at Chelsea, Indian Territory, on November 19, 1900, for the enrollment of himself and his three minor children Ellis W., Earl D. and Alexander Blasingame, Jr., as citizens by blood, and for the enrollment of his wife Ida, as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, October 6, 1902. On October 31, 1902, a birth affidavit was filed for Elmer H., born since the date of this application.

D 834 By James R. Blasingame, at Chelsea, Indian Territory, on November 20, 1900, for the enrollment of himself and his two minor children, William A. and George L. Blasingame as citizens by blood, and for the enrollment of his wife, Mary A. Blasingame as a citizen by intermarriage. On February 28, 1901, an affidavit was filed showing the birth of Grace D. Blasingame, a third child of the applicant. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 6, 1902.

D 435 By Martin L. Patterson, at Vinita, Indian Territory, on September 26, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife Zona, and his five minor children, Sarah A., Martha A., Claud A., Edgar D. and Thomas M. Patterson, as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on April 8, and October 4, 1902, and on October 23, 1901, an affidavit was filed showing the birth of Virgil V., sixth child of the applicant.

D 604 By William C. Dawson, at Nowata, Indian Territory, on October 16, 1900, for the enrollment of himself as a citizen by blood, and for the enrollment of his wife Alice as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on April 8, and October 10, 1902.

D 605 By Robert L. Dawson, at Nowata, Indian Territory, on October 16, 1900, for the enrollment of himself as a citizen by blood.

D 608 By Elbert B. Dawson, at Nowata, Indian Territory, on October 16, 1900, for the enrollment of himself as a citizen by blood. On July 8, 1901, an affidavit was filed showing the birth of Ralph N. Dawson, a child of the applicant.

D 609 By Sarah J. Dawson, at Nowata, Indian Territory, on October 16, 1900, for the enrollment of herself as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 15, 1902.

D 617 By Richard W. Dawson, at Nowata, Indian Territory, on October 17, 1900, for the enrollment of himself and his minor child Ina E. as citizens by blood, and for the enrollment of his wife, Luella as a citizen by intermarriage. Luella Dawson is differently classified and is not embraced in this decision. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on April 8, 1902.

D 626 By Ella L. Spickerman, at Nowata, Indian Territory, on October 17, 1900, for the enrollment of herself and her minor

child, Hellen J. Spickerman, as citizens by blood, and for the enrollment of her husband, John J. Spickerman as a citizen by intermarriage. John J. Spickerman is differently classified and is not embraced in this decision. On march 8, 1902, an affidavit was filed for William Glenn Spickerman, a second child of the applicant.

D 627 By Francis M. Dawson, son of Elbert Dawson, at Nowata, Indian Territory, on October 17, 1900, for the enrollment of himself as a citizen by blood.

D 23 By John W. Graham, at Fairland, Indian Territory, on July 12, 1901, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife Missouri and his minor children Tempa V. and Robert S. Graham, as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 2, 1902.

D 35 By Gideon Graham, at Westville, Indian Territory, on July 16, 1900, for the enrollment of himself and his minor children, John W., Julius E., Francis W., Mary E., Jesse E., Gracie M. and Florence M. Graham as citizens by blood, and for the enrollment of his wife Elizabeth Graham, as a citizen by intermarriage Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 17, 1902.

D 836 By Mathew A. Painter, at Chelsea, Indian Territory, on November 20, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Laverna A. and his five minor children Ada R., Eva P., John W., Ray D., and Roberta A. Painter, as citizens by blood. On December 7, 1900, an affidavit was filed for Roy V. Painter, a sixth child of the applicant. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 2 and 3, 1902.

D1124 By Charles T. Bradshaw, at Muskogee, Indian Territory, on February 23, 1901, for the enrollment of himself as a citizen by intermarriage, and for his wife Florence P. and his minor children, Myrtle and Claude Bradshaw as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on July 21, and October 20, 1902.

D1125 By Joe E. Graham, at Muskogee, Indian Territory, on February 23, 1901, for the enrollment of himself and his minor child William C. as citizens by blood.

D1126 By John F. Graham, at Muskogee, Indian Territory, on February 23, 1901, for the enrollment of himself and his minor child Edna M. as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on July 21, 1902. On October 31, 1902, a birth affidavit was filed for Robert Lee Graham, a second child of the applicant.

D1127 By James Neal, at Muskogee, Indian Territory, on February 23, 1901, for the enrollment of his wife, Joe Willie Neal, as a citizen by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on July 21, 1902

D1128 By James M. Graham, at Muskogee, Indian Territory, on February 23, 1901, for the enrollment of himself and his minor children, Marion, Maggie, Luther, Liddie and Margaret Graham as citizens by blood, and for the enrollment of his wife Bessie as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 17, 1902. On October 27, 1902, a birth affidavit was filed for Floyd Graham, born since the date of this application.

D 396 By Green W. Jackson, at Vinita, Indian Territory, on September 22, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife Ella Jackson as a citizen by blood.

D 476 By James H. Harmon, at Vinita, Indian Territory, on October 1, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife Flora and his minor children, Lillie R., Claud, Dwight, and William D. Harmon, as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 9, 1902.

D 508 By Toshie A. Jackson, at Vinita, Indian Territory, on October 3, 1900, for his enrollment, among others, as a citizen by blood. The other parties to the application are differently classified and are not embraced in this decision. Further proceedings were had in the matter of said application at Tahlequah, Indian Territory, on December 7, 1900.

D 830 By Lizzie Jackson, at Chelsea, Indian Territory, on November 19, 1900, for the enrollment of herself as a citizen by intermarriage, and for the enrollment of her minor children Osie, Lizzie, Jessie, Ray and Clyde Jackson as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 3, 1902.

D 847 By William C. Lenox, at Chelsea, Indian Territory, on November 20, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife Fannie and his minor children Birtie E. and Myrtle Lenox as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 3, 1902.

D 839 By James Lowe, at Chelsea, Indian Territory, on November 20, 1900, for the enrollment of himself and his minor children, May, Zelma, Roberta and Rosa Lowe as citizens by blood.

D 405 By Millie T. Dawson, at Vinita, Indian Territory, on September 24, 1900, for the enrollment of herself as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 13, 1902.

D 406 By Texanna Woolley, at Vinita, Indian Territory, on September 24, 1900, for the enrollment of herself and her minor child Irene W. Woolley as citizens by blood. On March 27, 1902, an affidavit was filed showing the birth of Wilburn E. Woolley, a second child of the applicant.

D 718 By Henry T. Richardson, at Claremore, Indian Territory, on October 26, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife Kitty, his minor children Delia F. and Finis T. Richardson and his stepchildren, Edgar, Walter, Alice, Laura, Oscar, Claude, Edna and Florence Flournoy as citizens by blood. Florence Flournoy is embraced in another application herein as Florence Morgan (D - 737). Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 9, 1902, and on August 20, 1902, a birth affidavit was filed for Jasper C. Richardson, born to Henry T. Richardson and his wife, Kittie, since the date of this application.

R 12 By Etta Brauer, at Fairland, Indian Territory, on July 12, 1900, for the enrollment of herself as a citizen by blood.

R 13 By Melissa A. Dawson, at Fairland, Indian Territory, on July 12, 1900, for the enrollment of herself as a citizen by intermarriage. Further proceedings in the matter of said application were had at Vinita, Indian Territory on October 4, 1900, and at Muskogee, Indian Territory, on October 14, 1902.

D 521 By Lula Pearl Weddle, at Vinita, Indian Territory, on October 4, 1900, for the enrollment of herself and her minor children Curtis and Morris O. Weddle as citizens by blood, and for the enrollment of her husband, Hiram F. Weddle as a citizen by intermarriage. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 14,1902. October 31, 1902, a birth affidavit was filed showing the birth of Roy Weddle, a third child of the applicant.

D 522 By William D. Douthitt, at Vinita, Indian Territory, on October 4, 1900, for the enrollment of himself as a citizen by blood.

D 343 By Alonzo M. Fishback, at Vinita, Indian Territory, on September 19, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife Laverna A. Fishback and his minor children William A. and Annie B. Fishback as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on March 18, and October 3, 1902.

D 737 By Elbert L. Morgan, at Claremore, Indian Territory, on October 29, 1901, for the enrollment of his wife Florence and his minor child Clide as citizens by blood. On April 30, 1902, an affidavit was filed showing the birth of Alice A. Morgan, a second child of the applicant.

D 845 By John E. Fishback, at Chelsea, Indian Territory, on November 20, 1900, for the enrollment of himself as a citizen by blood.

D 979 By George A. Mabry, at Tahlequah, Indian Territory, on December 14, 1900, for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Edna, and his minor children Roby and Charley Mabry as citizens by blood. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, January 15, 1901, and March 17, and October 15, 1902.

Proceedings were had in the matter of F. M. Dawson, et al., before Lewis T. Martin, a Notary Public on October 4, 1900, and further proceedings were had therein before the Commission at Muskogee, Indian Territory on March 17, 1902. All of these proceedings have been made a part of the record herein.

The evidence, and an examination of the records of the Cherokee Nation, in the possession of this Commission show that on January 11, 1883, one Robert Dawson and his adult children, F. M. Dawson, Elbert Dawson, Jasper Dawson, Mollie Dawson, Wilborn Dawson, James Dawson, Rial Dawson, Josephine Dawson, Joseph Dawson, Jane Dawson and John Dawson were admitted to citizenship in the Cherokee Nation by the Cherokee Commission on Citizenship, commonly known as the "Teehee Court", and that on September 9, 1884, one James Dawson,

a brother of the Robert Dawson aforesaid, together with his adult children, Ella Dawson, W. A. Dawson, Malvina Dawson and Missouri Dawson were admitted to citizenship in the Cherokee Nation by the Cherokee Commission on Citizenship commonly known as the "Spears Court." In addition to their tribal enrollment as shown by the evidence herein, it also appears from an examination of the Cherokee tribal rolls, in the possession of this Commission, that F. M. Dawson is identified on the Cherokee pay rolls of 1883 and 1894, Elbert Dawson on the Cherokee pay roll of 1886, Mollie Dawson on the pay roll of 1883, Wilborn Dawson on the pay rolls of 1886 and 1894, Emmes Dawson on the pay rolls of 1883 and 1894, Rial Dawson on the pay rolls of 1886 and 1894, Josephine Dawson on the pay roll of 1886, Jane Dawson on the pay roll of 1883, Joseph Dawson and John Dawson on the pay rolls of 1883, 1886 and 1894, Ella Dawson and W.A. Dawson on the pay roll of 1886, and Missouri Dawson on the pay roll of 1894.

A majority of the above named persons, together with the descend-ants of the persons admitted as aforesaid and such white persons as may have intermarried with the said Dawsons or their descendants are the applicants herein.

For convenience, the applications are divided into groups:

Group 1, includes the applications of Francis M. Dawson and those claiming through him and embraces cases numbered D 324, D 580, D 581, D 584, D 588 and D 835.

The evidence shows that Francis M. Dawson is the same person admitted to citizenship as hereinbefore stated under the name of F.M. Dawson. Katie Dawson, his wife, was married to him on November 21, 1880. The Cherokee Supreme Court in the cases of Cherokee Nation vs. Nancy Rogers and Melissa Dawson vs. W. A. Dawson held that a

white woman married to a Cherokee Indian at the time of his admission to citizenship acquires thereby the rights of Cherokee citizenship. She has lived with her said husband since they were married, and the six children included in the application of said Francis M. Dawson, and hereinbefore named are the issue of the marriage aforesaid. All the applicants herein are identified on the Cherokee Census roll of 1896.

John Dawson, William R. Dawson, Lizzie Atkins, formerly Dawson, Francis M. Dawson, Jr., and Arizona Allred are the children of said Francis M. Dawson by a former wife, Julia Ann. They were minors at the date of their father's admission to citizenship. John Dawson, Lizzie Atkins and Francis M. Dawson, Jr., are identified on the Strip payment roll of 1894, and William R. Dawson and Arizona Allred are identified on the Cherokee Census roll of 1896.

Andrew C. Atkins was married under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation on March 29, 1891, to the above named Lizzie Dawson. He has resided in the Cherokee Nation with his said wife since they were married, and the four children included in his application, and hereinbefore named are the issue of that marriage. The oldest child, Arthur, is identified on the Cherokee pay roll of 1894, and the three younger children are identified by birth affidavits on file with this Commission.

Arizona Allred, nee Dawson, came from Arkansas to the Cherokee Nation for the first time in 1894, remained there about two years and then returned to Arkansas, where she was married to Lea Allred. Such marriage was not in accordance with the laws of the Cherokee Nation. Arizona Allred and her husband came to the Cherokee Nation in 1896, stayed there a month and returned to Arkansas where they remained until September, 1898, at which time they came to the Cherokee Nation, remained there about a year and returned to Arkansas in 1899, where they were living at the date of this application. William C. Allred is the child of said Arizona Allred and possesses no rights not acquired by his mother. He is identified on the Cherokee Census

roll of 1898.

Paragraph 9, Section 21, of the Act of Congress approved June 28, 1898 (30 Stats., 495) provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

The evidence further shows that Francis M. Dawson, his wife, Katie and William R. Dawson, Francis M. Dawson, Jr., and Lizzie Atkins have resided in the Cherokee Nation since 1883, and Andrew C. Atkins, the husband of said Lizzie Atkins, since 1891, and that John Dawson has resided in the Cherokee Nation for at least fourteen years prior to the date of his application. The residence of the minor children of the above named persons is considered to be that of their parents, with whom they are living.

Group II, includes the applications of Samuel R. Dawson, together with those claiming through him and embraces cases numbered D 350, D 352, D 358, D 365, D 482 and D 402.

The evidence shows that Samuel R. Dawson is identified as the Rial Dawson admitted to citizenship in the Cherokee Nation as hereinbefore stated. His wife, Catherine, a white woman, was married to him on July 11, 1856. The Cherokee Supreme Court in the cases of Cherokee Nation vs. Nancy Rogers and Melissa Dawson vs. W. A. Dawson held that a white woman married to a Cherokee Indian at the time of his admission to citizenship acquires thereby the rights of Cherokee citizenship. She has lived with her said husband since their marriage, and August and Nate Dawson are the issue of the aforesaid marriage. Samuel R. Dawson, his wife and children are identified on the Cherokee Census roll of 1896.

Robert Dawson, Albert H. Dawson, Josephine Bulawsky, formerly Josephine Dawson, John W. Dawson and Katie Newman, formerly Katie Dawson are the children of said Samuel R. Dawson. They were minors at the date of their father's admission to citizenship, and they are

all identified on the Cherokee Census roll of 1896.

Sarah F. Dawson, nee Abbott, was married to the said Albert H. Dawson in October, 1894. She has lived with her said husband, since they were married. Ralph H., Alford and Cecil Dawson are the issue of that marriage. Sarah F. Dawson and her child Ralph H. are identified on the Cherokee Census roll of 1896. Alford is identified by a birth affidavit on file with this Commission. The evidence further shows that the youngest child, Cecil Dawson, is dead.

August Bulawsky, was married under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation on May 25, 1893, to the said Josephine Dawson. He has lived with his said wife since they were married and the six children included in his application, and hereinbefore named, are the issue of that marriage. The four older children are identified on the Cherokee Census roll of 1896, and the Strip payment roll of 1894. May Bulawsky is identified on the Cherokee Census roll of 1896, and Oscar Bulawsky is identified by a birth affidavit on file with this Commission.

Nannie Dawson, nee Baugher, was married to the said John W. Dawson on September 2, 1894, and she has lived with her said husband since they were married.

The evidence further shows that Samuel R. Dawson, his wife Catherine, and Robert Dawson, Albert H. Dawson, John W. Dawson, and Katie Newman have resided in the Cherokee Nation since 1886, August Bulawsky and his wife Josephine, since 1892, and Sarah F. and Nannie Dawson since 1894. The residence of the minor children included in this group is considered to be that of their parents, with whom they are living.

Group III, includes the application of John Dawson, and those claiming through him and embraces cases numbered D 578, D 360 and D 530. The evidence shows that John Dawson is the same person admitted to citizenship in the Cherokee Nation as hereinbefore stated. Sarah J. Dawson, nee Wood, his wife, a white woman, was married to him

on October 4, 1871. The Cherokee Supreme Court in the cases of Cherokee Nation vs. Nancy Rogers and Melissa Dawson vs. W. A. Dawson held that a white woman married to a Cherokee Indian at the time of his admission to citizenship acquires thereby the rights of Cherokee citizenship. She has lived with her said husband since they were married and the nine children included in the application of said John Dawson, and hereinbefore named, are the issue of said marriage. John Dawson, his wife, and his seven older children are identified on the Cherokee Census roll of 1896. The two younger children are identified by birth affidavits on file with this Commission.

Thomas P. Dawson and Orle H. Dawson are the children of said John Dawson. They were minors at the date of their father's admission to citizenship, and they are both identified on the Cherokee Census roll of 1896.

Thomas P. Dawson was married on April 24, 1898, to Allen A. Allison, and Marice J. Dawson is the issue of that marriage. The said child is identified by a birth affidavit on file with this Commission.

Orle H. Dawson was married on December 28, 1899, to Addie York, and Burr R. and James W. Dawson are the issue of that marriage. The said children are identified by birth affidavits on file with this Commission.

The evidence further shows that the said John Dawson and his wife, Sarah J., have resided together in the Cherokee Nation since 1883; that said Orle H. Dawson has resided in the Cherokee Nation since 1883, and that Thomas P. Dawson has resided in the Cherokee Nation since 1888. The residence of the minor children herein is considered to be that of their parents, with whom they are living.

Group IV, includes the applications of those claiming through the said Josephine Dawson, now deceased. At the time of her admission she was the wife of one Thomas Pierce, but was admitted to citizenship under maiden name of Dawson. The group embraces cases numbered D 408, D 409, D 431, D 471, D 472 and D 479.

The evidence shows that Robert Pierce, William Pierce, Charles E. Pierce, Oma Gray, formerly Oma Pierce, Effie Pierce (now Effie Akins) and Nancy J. Bogle, formerly Nancy J. Pierce are the children of said Josephine Dawson. They were minors at the date of their mother's admission to citizenship, and they are all identified on the Cherokee Census roll of 1896.

Nellie Pierce, a white woman, was married to said Robert Pierce on July 15, 1894. She has lived with her said husband since they were married, and Myrtle and Arthur Pierce are the issue of that marriage. Nellie Pierce is identified on the Cherokee Census roll of 1896, and her two children are identified by birth affidavits on file with this Commission.

Oma Gray was married to John B. Gray on April 7, 1898, and Cecil and Velton Gray are the issue of that marriage. Oma Gray is identified on the strip payment roll of 1894 and her children are identified by birth affidavits on file with this Commission.

John S. Bogle was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on April 5, 1894, to the above named Nancy J. Pierce. He has lived with his said wife since they were married and the six children included in his application, and hereinbefore named, are the issue of that marriage. John S. Bogle and his two older children are identified on the Cherokee Census roll of 1896, and his four younger children are identified by birth affidavits on file with this Commission.

The evidence further shows that the said William Pierce died in January, 1902.

It further appears that Robert Pierce, Charles E. Pierce, Nancy J. Bogle and Oma Gray have resided in the Cherokee Nation since 1884; that John S. Bogle, husband of Nancy J. Bogle, and Nellie Pierce, wife of Robert Pierce, have resided in said Nation ever since they were married, and the residence of the minor children herein is considered to be that of their parents with whom they are living. It appears that Effie Akins was seventeen years old at the date of the application for her enrollment, and it further appears that she

resided in the Cherokee Nation from about 1886 up to December, 1900, when she went to Colorado, was married there to Will Akins, and is now living in that state with her said husband.

Group V, includes the application of the said Joseph Dawson, Wilborn Dawson and James Dawson, and embraces cases numbered D 364, D 478 and D 526.

Joseph R. Dawson is identified as the Joseph Dawson admitted to citizenship in the Cherokee Nation as hereinbefore stated. He was married to Florence Jackson on May 16, 1886, and they have lived together since the date of their marriage. The said Florence Jackson is the daughter of Ella Dawson, but she was of age at the date of her mother's admission to citizenship. The six children included in the application of said Joseph R. Dawson, and hereinbefore named, are the issue of the marriage between the said Joseph R. Dawson and Florence Jackson. The applicant, his said wife and his four older children are identified on the Cherokee Census roll of 1896. The two younger children are identified by birth affidavits on file with this Commission.

Wilborn Dawson is identified as the person of that name admitted to citizenship in the Cherokee Nation as hereinbefore stated. He is identified on the Cherokee Census roll of 1896.

James R. Dawson is identified as the James Dawson admitted to citizenship in the Cherokee Nation as heretofore stated. His wife, Martha A. Dawson was married to him on February 20, 1890. She has lived with her said husband since the date of their marriage, and the four children included in the application of said James R. Dawson, and hereinbefore named, are the issue of said marriage. The applicant, his said wife and his three older children are identified on the Cherokee Census roll of 1896. The youngest child is identified by a birth affidavit on file with this Commision.

The evidence further shows that Joseph R. Dawson has resided

in the Cherokee Nation since 1883; that Florence Dawson and Wilborn Dawson have resided in said Nation since 1886, and that James R. Dawson has resided in said Nation since 1883, excepting a temporary absence from 1889 to 1891. The residence of the minor children included in this group is considered to be that of their parents, with whom they are living.

Group VI, includes the application of Mollie Dawson and those claiming through her and embraces case numbered D 518.

The evidence shows that Mollie Moore, formerly Dawson, is identified as the Mollie Dawson admitted to citizenship in the Cherokee Nation as hereinbefore stated. Her husband, Charles T. Moore, was married to her under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on January 17, 1887. He has lived with his said wife since they were married and the six children included in his application, and hereinbefore named, are the issue of said marriage. Charles T. Moore, his wife Mollie, and his four older children are identified on the Cherokee Census roll of 1896; the two younger children are identified by birth affidavits on file with this Commission.

The evidence further shows that said Charles T. Moore, his wife Mollie and his oldest child have resided in the Cherokee Nation since 1883; the younger children have resided in said nation all their lives.

Group VII, includes the applications of those claiming through the above named Jane Dawson, who, at the time of her admission to citizenship in the Cherokee Nation, as hereinbefore stated, was the wife of one Alexander Blasingame, but she was admitted under her maiden name of Dawson. Jane Dawson is a resident of Arkansas, and is not an applicant for enrollment. This group embraces cases numbered D 832, D 833 and D 834.

The evidence shows that Henry A. Blasingame, Elbert L. Blasingame,

and James R. Blasingame are the children of said Jane Dawson. They were minors at the time of their mother's admission to citizenship and they are all identified on the Cherokee Census roll of 1896.

Henry A. Blasingame was married to his wife Birdie J., on December 6, 1896, and Vinnie C. Blasingame is the issue of that marriage. The said child is identified by a birth affidavit on file with this Commission.

Ida Blasingame, a white woman, was married to the said Elbert L. Blasingame on September 5, 1894. She has lived with her said husband ever since they were married and the four minor children included in the application of said Elbert L. Blasingame are the issue of that marriage. The said Ida Blasingame and her two older children are identified on the Cherokee Census roll of 1896. The two younger children are identified by birth affidavits on file with this Commission.

Mary A. Blasingame was married to the said James R. Blasingame on August 11, 1895. She has lived with her said husband since they were married and the three minor children included in the application of said James R. Blasingame, and hereinbefore named, are the issue of that marriage. Mary A. Blasingame and her oldest child are identified on the Cherokee Census roll of 1896. The two younger children are identified by birth affidavits on file with this Commission.

The evidence further shows that the said Henry A. Blasingame, Elbert L. Blasingame and James R. Blasingame removed to the Cherokee Nation in 1897 and have resided therein with their said wives ever since. The residence of the minor children included in this group is considered to be that of their parents, with whom they are living.

Group VIII, includes the applications of those claiming through the said Elbert Dawson, and embraces cases numbered D 435, D 604, D 608, D 605, D 609, D 617, D 626 and D 627.

The evidence shows that Zona Patterson, formerly Dawson, William C. Dawson, Robert L. Dawson, Elbert B. Dawson, Richard W. Dawson, Ella L. Spickerman, formerly Dawson, and Francis M. Dawson are the children of the said Elbert Dawson. All of them, excepting the said Francis M. Dawson, were minors at the time of their father's admission to citizenship. Zona Patterson is identified on the Cherokee Census roll of 1896, and William C. Dawson, Robert L. Dawson, Elbert B. Dawson and Richard W. Dawson are identified on the Strip payment roll of 1894. An examination of the Cherokee tribal rolls, in the possession of this Commission, shows that the said Ella L. Spickerman is also identified on the Strip payment roll of 1894.

Martin L. Patterson was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on July 13, 1890, to the said Zona Dawson. He has lived with his said wife since they were married and the six children included in his application, and hereinbefore named, are the issue of that marriage. Martin L. Patterson and his three older children are identified on the Cherokee Census roll of 1896, and his three younger children are identified by birth affidavits on file with this Commission.

Alice Dawson, nee Alexander, was married to the said William C. Dawson on November 18, 1886. She has lived with her said husband ever since they were married.

Elbert B. Dawson was married on February 16, 1898, to Cora Bright, a non-citizen, and his child Ralph E. Dawson is the issue of that marriage. The said child is identified by a birth affidavit on file with this Commission.

Sarah J. Dawson, nee Jones, was married to the above named Elbert Dawson about 1854, and lived with him as his wife until his death in February, 1899, and has not re-married since his death. The Cherokee Supreme Court in the cases of Cherokee Nation vs. Nancy Rogers and Melissa Dawson vs. W. A. Dawson held that a white woman married to a Cherokee Indian at the time of his admission to citizenship acquires thereby the rights of Cherokee citizenship.

Richard W. Dawson was married to Emelia Mason, a white woman, on January 24, 1898. His child Ina M. Dawson is the issue of that marriage, and she is identified by a birth affidavit on file with this Commission.

Ella L. Spickerman was married to John J. Spickerman, a white man on September 7, 1897. Her children Nellen J. and William Glenn are the issue of that marriage. They are identified by birth affidavits on file with this Commission.

It further appears from the evidence that Francis M. Dawson, son of Elbert Dawson, at the time of his father's admission to citizenship in the Cherokee Nation was twenty-two or twenty-three years old. There is no evidence that the said Francis M. Dawson has been admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation, or by the Commission to the Five Civilized Tribes, or by the United States Court under the provisions of the Act of Congress of June 10, 1896 (29 Stats., 321), Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats.,495), provides for the enrollment of,

> "all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted."

The evidence further shows that Zona Patterson, William C. Dawson and Richard W. Dawson have resided in the Cherokee Nation since 1884; Robert L. Dawson, Elbert B. Dawson, Sarah J. Dawson, and Ella L. Spickerman since 1883; Alice Dawson since 1886, and Martin L. Patterson since 1894. The residence of the minor children included in this group is considered to be that of their parents, with whom they are living.

Group IX, includes the applications of the said Missouri Dawson, and those claiming through her. The said Missouri Dawson at the time of her admission to citizenship was the wife of one John W. Graham, but she was admitted under her maiden name of Dawson, This group embraces cases numbered, D23, D 35, D 836, D 1124, D 1125, D 1126, D 1127 and D 1128.

The evidence shows that John W. Graham was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on February 12, 1888, to the said Missouri Dawson. He had been formerly married to her in the State of Texas in 1866, and has lived with her since that time. Tempa V. and Robert S. Graham are the issue of the aforesaid marriage. John W. Graham, his wife and two children are identified on the Cherokee Census roll of 1896.

The evidence further shows that Gideon Graham, Laverna A. Painter, formerly Graham, Florence P. Bradshaw, formerly Graham, Joe E. Graham, John P.Graham, Joe Willie Neal, formerly Graham and James M. Graham are the children of said Missouri Dawson, now Missouri Graham. They were all minors at the date of their mother's admission to citizenship. Gideon Graham and Laverna A. Painter are identified on the Cherokee Census roll of 1896, and Florence P. Bradshaw, Joe E. Graham, Joe Willie Neal and James M. Graham are identified on the Strip payment roll of 1894.

Elizabeth Graham was married to the said Gideon Graham on October 10, 1886. She has lived with her said husband since they were married, and the seven older children included in the application of said Gideon Graham, and hereinbefore named are the issue of the said marriage. Elizabeth Graham and her six older children are identified on the Cherokee Census roll of 1896, and the youngest child is identified by a birth affidavit on file with this Commission.

Mathew A. Painter was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation to the said Laverna A. Graham on August 19, 1888, and has lived with his wife since that time. The six children included in his application, and hereinbefore named, are the issue of said marriage. The said Mathew A. Painter and the three older children are identified on the Cherokee Census roll of 1896. The three younger children are identified by birth affidavits on file with this Commission.

Charles T. Bradshaw was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on March 22, 1894, to the said Florence P. Graham. He has lived with his wife since the date of their marriage, and Myrtle and Claude Bradshaw are the issue of that marriage. The said children are identified by birth affidavits on file with this Commission.

Joe E. Graham was married to Mary Bradshaw, a non-citizen on January 6, 1898. William C. Graham is the issue of that marriage, and he is identified by a birth affidavit on file with this Commission.

John F. Graham was married on February 11, 1900, to Mattie Lawson, a non-citizen, and Edna M. and Robert Lee are the issue of that marriage. Said children are identified by birth affidavits on file with this Commission.

Bessie Graham was married on November 2, 1892, to the said James M. Graham. She has lived with him since the date of their marriage, and the six children included in the application of said James M. Graham, and hereinbefore named, are the issue of the said marriage. The oldest child Marion is identified on the Strip payment roll of 1894, and the five younger children are identified by birth affidavits on file with this Commission.

The evidence further shows that the said John W. Graham, his

wife Missouri Graham, Gideon Graham, Mathew A. Painter, and his wife Laverna A. Painter, Florence P. Bradshaw, John F. Graham and Joe Willie Neal have resided in the Cherokee Nation since 1888, and that Joe E. Graham and James M. Graham have resided in the Cherokee Nation since 1884. The residence of the minor children included in this group is considered to be that of their parents, with whom they are living.

Group X, includes the applicati[illegible] of the said Ella Dawson and those claiming through her. The said Ella Dawson, at the time of her admission to citizenship, was the wife of Green W. Jackson, but she was admitted to citizenship under her maiden name of Dawson. This group embraces cases numbered D 395, D 476, D 508, D 830 and D 847.

The evidence shows that Green W. Jackson was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on March 24, 1887 to the said Ella Dawson. He had been previously married to her in Texas prior to her admission to citizenship. From an affidavit made a part of this record it appears that Green W. Jackson died subsequent to the date of this application, and prior to September 1, 1902.

The evidence further shows that Flora Harmon, formerly Jackson, Toshie A. Jackson, William Jackson and Fannie Lenox, formerly Jackson are the children of said Ella Dawson, now Ella Jackson. Flora Harmon, Toshie A. Jackson and Fannie Lenox were minors at the date of their mother's admission to citizenship, and they are all identified on the Cherokee Census roll of 1896.

James H. Harmon was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on April 24, 1887, to the said Flora Jackson. He has lived with his wife since the date of their marriage, and the four minor children included in

his application, and hereinbefore named, are the issue of the said marriage. James H. Harmon and his three elder children are identified on the Cherokee Census roll of 1896. The youngest child is identified by a birth affidavit on file with this Commission.

William C. Lenox was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on April 1, 1888, to the said Fannie Jackson. He has lived with his wife since the date of their marriage, and the two children Birtie E. and Myrtle Lenox, included in his application, are the issue of the said marriage. William C. Lenox and his two children are identified on the Cherokee Census roll of 1896.

Lizzie Jackson claims to have been married in 1888 to the said William Jackson, who is now deceased. It appears that William Jackson at the date of his mother's admission to citizenship, was over twenty-one years old. There is no evidence that the said William Jackson was ever admitted to citizenship in the Cherokee Nation, by the duly constituted authorities of said Nation, or by the Commission to the Five Civilized Tribes, or by the United States Court under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321). Lizzie Jackson and the five minor children included in her application, and hereinbefore named, are identified on the Cherokee Census roll of 1896, and they take only such rights as may have been possessed by the said William Jackson. The authority of the Commission herein is defined in Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), heretofore quoted.

The evidence further shows that the said Ella Jackson, the said Flora Harmon and the said Tookie A. Jackson have resided in the Cherokee Nation since 1884, and that William C. Lenox, and his wife Fannie Lenox have resided in the Cherokee Nation since

1882. The residence of the minor children included in this group is considered to be that of their parents, with whom they are living.

Group XI, includes the applications of those claiming through Malvina Dawson and embraces case numbered D 239.

The evidence shows that James Lowe is the son of the said Malvina Dawson, and that at the time of her admission to citizenship the said James Lowe was over 21 years old. There is no evidence that the said James Lowe was ever admitted to citizenship in the Cherokee Nation, by the duly constituted authorities of said Nation, or by the Commission to the Five Civilized Tribes, or by the United States Court under the provisions of the Act of Congress approved June 10, 1898 (28 Stats., 321). It further appears that the said James Lowe was married on June 12, 1887, to Mellie Knight, a white woman, and the four minor children included in his application and hereinbefore named, are the issue of that marriage. James Lowe and his said children are identified on the Cherokee Census roll of 1896, and said children take only the rights which may have been acquired by their father.

The authority of the Commission herein is defined in Section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), heretofore quoted.

Group XII, includes the applications of those claiming through the said W. A. Dawson and embraces cases numbered D 405, D 406, D 715, R 12 and R 13.

The evidence shows that Millie T. Dawson was married to the said W.A.Dawson in 1892 and lived with him as his wife in the Cherokee Nation until his death in 1899, and that she has not re-married since his death. Texanna Woolley is the daughter of said W. A. Dawson and his former wife Melissa A. Dawson. Texanna Woolley was a minor at the date of her father's admission to citizenship, and she is identified on the Strip payment roll of 1894. She

was married on March 27, 1898, to James Woolley, and her children Irene W. and Wilburn E. are the issue of that marriage. They are identified by birth affidavits on file with this Commission.

Henry T. Richardson was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on July 21, 1886, to one Sellar Dawson, who was the daughter of the said W. A. Dawson by his first wife Melissa A. Sellar Dawson was a minor at the date of her father's admission to citizenship. Henry T. Richardson lived in the Cherokee Nation with his said wife Sellar from the date of their marriage until her death in 1892. On September 22, 1898, Henry T. Richardson married one Kitty Flourney nee Dawson. The said Kitty Flourney was re-admitted to citizenship in the Cherokee Nation by an Act of the Cherokee National Council on December 1, 1894. Of the children herein applied for, Delia F. Richardson is the child of the applicant by his first wife, Sellar. Finis T. Richardson and Jasper C. Richardson are children by his wife Kitty. Edgar, Walter, Alice, Laura, Oscar, Claude and Edna Flourney are the children of his said wife Kitty by a former husband. The six older children were admitted to citizenship in the Cherokee Nation on December 1, 1894, with their mother as the members of her family. The youngest child Edna Flourney was born in 1896 and was living at the date of this application. Delia F. Richardson is identified on the Cherokee Census roll of 1896, and Finis T. and Jasper C. Richardson are identified by birth affidavits on file with this Commission.

Etta Brauer is the daughter of said W. A. Dawson, and was a minor at the date of her father's admission. She was married in 1892 to a non-citizen but such marriage was not in accordance with Cherokee laws. She is identified on the Cherokee Census roll of 1896.

Melissa A. Dawson was married to the said W. A. Dawson in the State of Texas on September 28, 1873. The Supreme Court of the Cherokee Nation in the case of Melissa A. Dawson vs. W. A. Dawson, decided that Melissa A. Dawson, the applicant herein was a citizen

of the Cherokee Nation by virtue of intermarriage with her said husband, W. A. Dawson. She is identified on the Cherokee Census roll of 1896, and she has not re-married since her divorce from said W. A. Dawson.

The evidence shows that Texanna Woolley has resided in the Cherokee Nation since 1884; that Etta Brauer and Melissa A. Dawson have resided in the Cherokee Nation, with the exception of temporary absences, since 1884; that Millie T. Dawson has resided in the Cherokee Nation since 1892; that Henry T. Richardson has resided in the Cherokee Nation since 1886, and that Kitty Richardson, his wife, has resided in the Cherokee Nation since 1894. The residence of the minor children included in this group is considered to be that of their parents, with whom they are living.

Group XIII, includes the following applications: Hiram F. Weddle, et al D 521; William D. Douthitt, D 522; Alonzo M. Fishback, D 343; Florence Morgan, et al D 737; John E. Fishback, D 845 and George A. Mabry, et al D 979. The persons embraced in these applications are related to the above named Dawsons. They are not claiming the right to enrollment by virtue of such relationship, but rely upon a separate adjudication of their rights.

The evidence shows that Hiram F. Weddle was married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation on September 13, 1884, to Lula P. Douthitt, who was admitted to citizenship in the Cherokee Nation by the said "Spears Court" on September 13, 1884. Curtis, Morris O. and Roy Weddle are the issue of the said marriage. Hiram F. Weddle and his said wife are identified on the Cherokee Census roll of 1896, and their three children are identified by birth affidavits on file with this Commission.

William D. Douthitt is the brother of said Lula P. Weddle, and was admitted to citizenship in the Cherokee Nation with his said sister on September 13, 1884. He is identified on the Cherokee

Census roll of 1896.

Alonzo M. Fishback was married under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation on May 17, 1893, to Laverna A. Dawson. He had been previously married to the same wife in Texas in 1877, and has lived with her ever since. It appears that Laverna Fishback was re-admitted to citizenship in the Cherokee Nation by an Act of the Cherokee National Council on December 1, 1894. William A. and Annie B. Fishback are the issue of the said marriage. Alonzo M. Fishback and his said wife and children are all identified on the Cherokee Census roll of 1896, and his wife is also identified on the Cherokee pay roll of 1890.

Florence Morgan, the wife of Elbert L. Morgan, is the daughter of the Kitty Richardson heretofore mentioned and was admitted to citizenship in the Cherokee Nation on December 1, 1894 with the said Kitty Richardson as a member of her family. Clide and Alice A. Morgan are her children by her said husband. The said children are identified by birth affidavits on file with this Commission.

John B. Fishback is the son of Laverna Fishback, who was re-admitted to citizenship on December 1, 1894, as heretofore stated. He was a minor at the date of his mother's admission to citizenship and he is identified on the Cherokee Census roll of 1896.

George A. Mabry was married to one Edna Dawson in the State of Arkansas in 1884. He claims to have been married under a Cherokee marriage license to his said wife in 1889, but he presents no satisfactory proof of such marriage. Edna Dawson was re-admitted to citizenship in the Cherokee Nation by an Act of the Cherokee National Council on December 1, 1894. Roby and Charley Mabry are her children by her said husband, George A. Mabry. Edna Mabry is identified on the strip payment roll of 1894, and the two children were minors at the date of their mother's admission to citizenship.

The evidence further shows that Alonzo M. Fishback and his wife Laverna A. Fishback have resided in the Cherokee Nation since 1883; that Lula P. Weddle, William D. Bouthitt, and John N. Fishback have resided in the Cherokee Nation since 1884, and that Florence Morgan and Edna Mabry have resided in said Nation since 1894. The residence of the minor children included in this group is considered to be that of their parents, with whom they are living.

All birth affidavits for the minor children embraced in this decision, and hereinbefore noted, are made a part of this record.

It is contended by the Cherokee Nation that the applicants herein are not entitled to be enrolled by this Commission because they have never been lawfully admitted or enrolled by the Cherokee authorities, and that the judgment of the Cherokee Commission on Citizenship admitting Robert Dawson and his family was obtained by fraud on the part of said Dawson.

In considering the question at issue, it is the opinion of this Commission that it has no power, and that it is not the purpose of this proceeding, to review or to set aside the judgment in the Dawson case, or to determine such questions as were necessarily involved in the issues before the Cherokee Commission, and were passed upon by that Commission. In United States vs. Throckmorton, 98 U. S. Page 61, it is stated, "the doctrine is well settled that the Court will not set aside a judgment because it was founded on perjured testimony or for any matter which was actually presented and considered in the judgment assailed." Only such facts therefore, are considered by this Commission, as were not part of the record in the Robert Dawson case before the Tsehee Commission, and which tend to show whether the judgment admitting the Dawsons was a bona fide judgment of the Tsehee Commission, or whether such judgment is void because of fraud, and upon this proposition the burden of proof is upon those attacking the judgment.

Briefly stated, the circumstances attending the admission of the Dawsons appear to be as follows:

On September 24, 1881, an application was made to the Cherokee Commission on Citizenship known as the "Techee Court" for admission to Cherokee citizenship of Robert Dawson and the members of his family above mentioned. The members of that Commission were Thomas Techee, Alex Wolfe and T. F. Thompson. The first two were full blood Cherokee Indians; they could understand, but could not talk English. One D.W.C. Duncan was the Clerk of the Commission. The Dawson case was continued several times before final decision. J.M. Bryan appears to have been an attorney in the case, and after some delay he notified Francis M. Dawson that the case would be taken up by the Commission at its session in January, 1883, and also informed him that C.N. Taylor would look after Dawson's interests as he, Bryan, would be in Washington. On receipt of this notice Francis M. Dawson went to Fort Gibson, Cherokee Nation, and made arrangements with his uncle Samuel N. Benge to go to Tahlequah and conduct the case. Benge, who is a witness herein testifies that he was connected with the Dawson case when it was commenced in 1881; that it was continued several times for want of evidence, and that in January, 1883, in company with F. M. Dawson he went to Tahlequah and while there secured the testimony of Tank Rogers, a negro, who knew the Dawson's ancestors, and that after getting his evidence the case was submitted to the Commission. He further testifies that the Commission rendered a decision against the Dawsons and that next morning the Commission reopened the case, but not upon motion of the witness, and rendered a judgment admitting the Dawsons to citizenship. He further states that on his way home to Fort Gibson with Dawson he remarked to the latter, " it was a pretty hard blow when they rendered a decision against us," to which Dawson is alleged to have replied, "yes, but Duncan was the man to reach and he reached him with five hundred dollars."

Dawson denies ever having had such a conversation and says that he did not return to Fort Gibson with Bunge but went home to Arkansas by a different route.

G. N. Tayler testifies that he was an attorney in the case and was present when the case was decided. He says there were only two Commissioners present, Tecles and Wolfe. He further testifies that D.W.C. Duncan, the Clerk of the Court asked the witness to let him know when any large citizenship cases came up; that he introduced F.M. Dawson to Duncan on the evening of January 10th, heard part of a conversation between them in which Duncan addressing Dawson said, "there is a hitch in your evidence, if that was straightened out it will be all right." Next morning witness says Dawson told him to call up the case, which he did. That there was no additional evidence introduced and no argument made, and that the case was then decided in favor of the Dawsons. Witness further testifies that Dawson gave him twenty dollars and said he would send him the balance in a short time, that in the course of ten days he sent him one hundred dollars with directions to pay over half of it to Duncan; that Dawson soon afterwards sent him another hundred dollars with the same instruction to give Duncan half of it.

Dawson denied the matters testified to by Tayler excepting in the matter of paying Tayler money, which he admits in part, but says that the twenty dollars mentioned was sent to Tayler about a year after the decision, and that he instructed Tayler to pay it over to Duncan to pay him for a land claim, and that the other money was in payment of J.M. Bryan's attorney fees which Tayler represented to Dawson he had for collection against him. Tayler's reputation for truth and veracity has been impeached by various disinterested witnesses.

The evidence which may be considered as tending to support the

charge of fraud is the testimony of S. N. Benge, G. N. Tayler, Thomas B. Babcart, J. L. Glinkenbeard, James W. Lewis, C.S. Brought and David Meredith.

S. N. Benge testifies that a judgment adverse to the Dawsons was rendered by the Commisd on on the evening of one day and without any additional proceedings in the case that judgment was reversed on the morning of the next day.

Even if this were a material fact, there is no other proof that two judgments in the case were ever rendered. The record of the proceedings and judgment in the Commission's docket is all on one page, the entry of the application in 1881 and the first continuance being entered under authority of a former Commission and by a different clerk, and there is no evidence of erasure on that page. It is not an unusual thing for a Court to change its judgment, and this fact, if it is a fact, is not in itself any evidence of fraud.

Thomas B. Babcart testifies that one James Dawson, a man of forty or fifty years of age, in company with Butler, the Commission's interpreter and Jim Smith, solicitor for the Nation, came to the witness in Tahlequah the evening of January 10, 1883, to borrow some money; that Dawson was vouched for by Butler as a responsible party and that Dawson told the witness that he had to have money that night that his case was to be submitted the next day if he could get some money, that Smith had agreed to submit the case without evidence, and that witness thereupon let Dawson have ten dollars.

Admitting all this to be true and that the influence of these officials was purchased for the sum of ten dollars, the Commission fails to see how these alleged facts show that the Court was imposed upon or misled. Bribery of officials to use their influence with the Commission would not necessarily vitiate the judgment, but it must appear that the fraud, or corruption reached the members of the

Commission and tainted the judgment itself. The case was not submitted without evidence as appears from the record, and it is shown that such evidence was carefully considered by that Commission. Furthermore, the evidence shows that there was no such person than in Tahlequah as the James Dawson described by witness.

Clinkenbeard testifies that he had a talk with Elbert Dawson about 1881; that Dawson told him he had only one witness, Dr. Baker of Arkansas, "an old man 85 or 90 years old who did not know straight up" and that he would give Dr. Baker four drinks of Arkansas whiskey and he would swear black was white. Witness further testifies that Dawson told him that money was what made the mare go in Texas, and that he had found out that it goes here too.

Assuming that this Commission can go into the question of perjury in connection with evidence in that case, the testimony of Clinkenbeard establishes, if anything, only the facts stated, and does not prove that Dr. Baker committed perjury in giving his testimony before the Commission. Further, it is not clear that Dr. Baker was the only witness in the case. Benge stated that Tom Rogers was a witness, Duncan is under that impression also, and T. F. Thompson, one of the Commissioners, states that he thinks there were three witnesses. The testimony of Doctor Baker, seems, however, to be the only testimony preserved of record. As to whether Doctor Baker offered perjured testimony by Dawson's procurement, it is proper to state that the evidence of W. H. Curtis and A. S. McKennon, witnesses for applicants show that Doctor Baker was a man of integrity and was not addicted to drinking.

The testimony of James W. Lewis is to the effect that he had a conversation with F.M. Dawson about 1885, in which Dawson had told the witness that it had cost him seven hundred dollars to get his rights. Brought also testifies that he was an applicant for citizen-

ship about 1861 or 1862, and that while his case was pending he had a talk with F. M. Dawson who told him that if he (the witness) ever got in, it would cost him seven hundred dollars, and that Dawson told him he paid one witness three hundred dollars, and made arrangements with the Court to get the Dawsons in at one hundred dollars a family. David Meredith testifies that he had a talk with old James Dawson in 1866, and that the latter told the witness it cost him twelve hundred dollars to get his case through.

It can hardly be urged that such evidence is sufficient to show that the members of the Tochee Commission were corrupted by the fraudulent use of money. So far as these witnesses have been able to testify the money spent by the Dawsons might have been for proper and legitimate purposes. F.M. Dawson gives a detailed statement of what the case cost him and his brother in a legitimate way. The presumption can not be indulged that such moneys were used for fraudulent purposes and the proof to the contrary must be very clear before this Commission will deny applicants the right to be enrolled upon that ground.

Admitting the truth of all the testimony in this case as to the actual transfer of money by the Dawsons, it appears that Duncan, Butler and Smith were the only beneficiaries of that money. There is no evidence that the members of the Commission received or were offered any of it.

The judgment entered in the Commission's docket shows the signature of the three members of the Commission appended thereto. There is some conflict as to whether Duncan signed Thompson's name, or whether Thompson affixed his own signature. Duncan testified that all three signatures were made by him as Clerk under authority of the Commissioners present, the two full bloods being unable to sign their names. T.P. Thompson testifies that he signed the original

transcript of the judgment, which was made on the day of its rendition. The question, however, is not considered to be very material. The signing of judgments by each Commissioner appears to have been a matter of custom only. T. F. Thompson testifies that he remembers the Dawson case and recognizes the judgment therein as the final judgment of the Commission, and that there was no fraud or corruption in the procurement of that judgment by the Dawsons or by any one else so far as he knew.

Much evidence has been introduced by the Cherokee Nation for the purpose of showing that the ancestor, through whom the Dawsons claim, was not a Cherokee, and that other members of the Dawson family, claiming from the same source, have been denied Cherokee citizenship by subsequent Cherokee tribunals, and also by this Commission and by the United States Court. Such evidence, in the opinion of this Commission, is not competent for any purpose in this proceeding. The only question before this Commission is whether there was fraud in the procurement of the Robert Dawson judgment, and not whether the applicants are Cherokee Indians, or whether they ought to have been admitted to citizenship upon the proof submitted. These were questions presented, considered, and passed upon by the Teehee Commission. If their decision is a valid and regular judgment, it is binding on this Commission. If, on the contrary, the applicants have never been lawfully admitted to citizenship, because the judgment under which they claim is void, for fraud, then the question as to whether they are Cherokees by blood is not material, as this Commission has now no authority to admit them to citizenship.

While it is true, that since 1883, a number of applicants, members of the Dawson family, have been denied admission to citizenship in the Cherokee Nation, no argument derived therefrom is of any force, for it is also true that other members of the same family have been admitted to citizenship, and the action of the Cherokee authorities in admitting them has never been questioned by the Cherokee Nation. Whatever inference, therefore, may be drawn from these facts, applies with equal force both for and against the validity of the judgment in question.

The Dawsons have lived in the Cherokee Nation, most of them since 1883; they have exercised the rights of Cherokee citizenship for many years, some of them occupying official positions in the Nation, and no protest seems to have been made against their citizenship until within the last few years. The records of the Cherokee Nation, in the possession of this Commission, show, that since 1883, there have been Commissions on citizenship charged with authority to investigate the judgments of former tribunals alleged to have been secured by fraud, and the Cherokee Legislature had power to order an investigation, and to create a tribunal with authority to set aside a judgment so obtained. No such action appears to have been taken by the Cherokee authorities with reference to the judgment of the Teehee Commission in the Robert Dawson case.

After a careful consideration of all the facts in this case this Commission is of the opinion that the evidence fails to establish that the Dawsons secured their admission to citizenship by fraud or that the judgment of the Teehee Commission as rendered January 11, 1883, was fraudulent as the result of corruption, bribery, or deception upon the part of the Dawsons, or their agents, and that such judgment, and also the judgment of the Spears Commission in 1884, and the Act of the Cherokee National Council of December 1, 1894, which have not been attacked by the Cherokee Nation, being regular on their face, must therefore be accepted by this Commission as the valid judgments of the duly constituted Cherokee authorities.

It is, therefore, the opinion of this Commission that,

(Group I.) Francis M. Dawson, son of Robert Dawson, Lulu Dawson, Ray Dawson, Jessie J. Dawson, Jacob L. Dawson, Hugh A. Dawson, Laura A. Dawson, John Dawson, William R. Dawson, Lizzie Atkins, Arthur Atkins, Edna E. Atkins, Edward C. Atkins, George J.W. Atkins, Francis M. Dawson, Jr., son of Francis M. Dawson and grand-son of Robert Dawson.

(Group II.) Samuel R. Dawson, August Dawson, Kate Dawson, Robert

Dawson, Albert H. Dawson, Ralph H. Dawson, Alford Dawson, Josephine Bulawsky, Dora Bulawsky, Ida Bulawsky, Annie Bulawsky, Blanche Bulawsky, May Bulawsky, Oscar Bulawsky, John W. Dawson, Katie Newman,

(Group III) John Dawson, Robert B. Dawson, Iola M. Dawson, Lemuel H. Dawson, Rosa B. Dawson, Charles N. Dawson, Hattie J. Dawson, Jennings B. Dawson, James U. Dawson, Vergal C. Dawson, Thomas P. Dawson, Marice J. Dawson, Orle H. Dawson, Burr R. Dawson, James W. Dawson,

(Group IV) Robert Pierce, Myrtle Pierce, Arthur Pierce, Charles E. Pierce, Oma Gray, Cecil Gray, Velton Gray, Effie Akins (formerly Effie Pierce), Nancy J. Bogle, James E. Bogle, Edna N. Bogle, John H. Bogle, Marvin R. Bogle, Claud Bogle, Nancy Edith Bogle,

(Group V) Joseph R. Dawson, Clarence N. Dawson, Council J. Dawson, Elmer A. Dawson, Cleo Dawson, Rufus T. Dawson, Wilborn Dawson, Edgar Dawson, James R. Dawson, Vinnie D. Dawson, Ermine C. Dawson, Edwin C. Dawson, Ancil F. Dawson,

(Group VI) Mollie Moore, Nora Moore, Walter Moore, Clara Moore, Ora Moore, James W. Moore, Edna E. Moore,

(Group VII) Henry A. Blasingame, Vinnie C. Blasingame, Elbert L. Blasingame, Ellis W. Blasingame, Earl D. Blasingame, Alexander Blasingame, Jr., Elmer H. Blasingame, James R. Blasingame, William A. Blasingame, George L. Blasingame, Grace D. Blasingame,

(Group VIII) Zona Patterson, Sarah A. Patterson, Martha A. Patterson, Claud A. Patterson, Edgar D. Patterson, Thomas M. Patterson, Virgil V. Patterson, William C. Dawson, Robert L. Dawson, Elbert E. Dawson, Ralph E. Dawson, Richard W. Dawson, Ina E. Dawson, Ella L. Spickerman, Hellen J. Spickerman, William Glenn Spickerman,

(Group IX) Missouri Graham, Tempa V. Graham, Robert S. Graham, Gideon Graham, John W. Graham, Julius E. Graham, Francis W. Graham, Mary E. Graham, Jesse E. Graham, Gracie E. Graham, Florence M. Graham, Laverna A. Painter, Ada H. Painter, Eva P. Painter,

John W. Painter, Ray D. Painter, Roberta A. Painter, Roy V. Painter, Florence P. Bradshaw, Myrtle Bradshaw, Claude Bradshaw, Joe N. Graham, William C. Graham, John F. Graham, Edna M. Graham, Robert Lee Graham, Joe Willie Neal, James M. Graham, Marion Graham, Maggie Graham, Luther Graham, Floyd Graham,

(Group X) Ella Jackson, Flora Harmon, Lillie R. Harmon, Claud Harmon, Dwight Harmon, William D. Harmon, Toshie A. Jackson, Fannie Lenox, Birtie E. Lenox, Myrtle Lenox,

(Group XII) Texanna Woolley, Irene W. Woolley, Wilburn E. Woolley, Kitty Richardson, Edgar Flourney, Walter Flourney, Alice Flourney, Laura Flourney, Oscar Flourney, Claude Flourney, Edna Flourney, Finis T. Richardson, Jasper C. Richardson, Delia F. Richardson, Etta Brauer,

(Group XIII) Lala Pearl Weddle, Curtis Weddle, Morris O. Weddle, Roy Weddle, William D. Douthitt, Laverna A. Fishback, William A. Fishback, Annie B. Fishback, Florence Morgan, Clide Morgan, Alice A. Morgan, John E. Fishback, Edna Mabry, Roby Mabry and Charley Mabry,

should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and that

(Group I) Katie Dawson, Andrew C. Atkins,

(Group II) Catherine Dawson, Sarah F. Dawson, August Bulawsky, Nannie Dawson,

(Group III) Sarah J. Dawson, nee Wood,

(Group IV) Nellie Pierce, John S. Bogle,

(Group V) Florence Dawson, Martha A. Dawson,

(Group VI) Charles T. Moore,

(Group VII) Ida Blasingame, Mary A. Blasingame,

(Group VIII) Martin L. Patterson, Alice Dawson, Sarah J. Dawson, nee Jones

(Group IX) John W. Graham, Elizabeth Graham, Mathew A. Painter, Charles T. Bradshaw, Bessie Graham,

(Group X) James H. Harmon, William C. Lenox,

(Group XII)Millie T. Dawson, Henry T. Richardson, Melissa A. Dawson, (Group XIII)Hiram F. Weddle and Alonzo M. Fishback, should be enrolled as citizens by intermarriage of the Cherokee Nation in accordance with the provisions of paid Section twenty-one of the Act of Congress, and it is so ordered.

It is further the opinion of this Commission that, for the reasons heretofore stated, the applications for the enrollment of Arizona Allred and William C. Allred, (embraced in D 835); Francis M. Dawson, son of Elbert Dawson, (embraced in D. 627); Osie Jackson, Lizzie Jackson, Jessie Jackson, Ray Jackson, and Clyde Jackson, the children of William and Lizzie Jackson, (embraced in D 830); James Lowe, May Lowe, Zelma Lowe, Roberta Lowe and Rosa Lowe, (embraced in D 839), as citizens by blood of the Cherokee Nation, and that the applications of Lizzie Jackson, widow of William Jackson, (embraced in D 830), and George A. Mabry (embraced in D 979), as citizens by intermarriage of the Cherokee Nation should be denied, in accordance with the provisions of the law heretofore quoted, and it is so ordered.

As hereinbefore stated William Pierce (D 409) and Cecil Dawson D 358) and Green W. Jackson (D 395) died prior to September 1, 1902. It further appears from affidavits, made a part of this record that Liddie and Margaret Graham (D 1128) have died since the date of the application for their enrollment and prior to September 1, 1902.

It is, therefore, ordered that the applications for the enrollment of said William Pierce, Cecil Dawson, Green W. Jackson, Liddie Graham and Margaret Graham be, and the same are hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby, Chairman.

Commissioner.

Commissioner.

Dated at Muskogee, Ind. Ter.,
this DEC 23 1902

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Vinita, I.T., February 8th.,1905.

In the matter of the application of Francis M. Dawson, et al. for enrollment as Cherokee citizens, consolidating the applications of,

Francis M. Dawson, et al.,	Cher	D-324
John Dawson,	"	D-580
William R. Dawson,	"	D-581
Andrew C. Atkins, et al.,	"	D-584
Francis M. Dawson, Jr.,	"	D-588
Arizona Allred, et al.,	"	D-835
Samuel R. Dawson, et al.,	"	D-350
Robert Dawson,	"	D-352
Albert N. Dawson, et al.,	"	D-358
August Bulawsky, et al.,	"	D-365
John W. Dawson, et al.,	"	D-482
Katie Newman,	"	D-402
John Dawson, et al.,	"	D-578
Thomas P. Dawson, et al.,	"	D-360
Orie M. Dawson, et al.,	"	D-530
Robert Pierce, et al.,	"	D-406
William Pierce,	"	D-409
Charles E. Pierce,	"	D-431
Ona Gray, et al.,	"	D-471
Effie Pierce,	"	D-472
John S. Bogle, et al,	"	D-479
Joseph R. Dawson, et al,	"	D-364
Willbern Dawson,	"	D-475
Charles T. Moore, et al.,	"	D-518
James R. Dawson, et al,	"	D-526
Henry A. Blasingame, et al,	"	D-832
Elbert L. Blasingame, et al,	"	D-833
James R. Blasingame, et al,	"	D-834
Martin L. Patterson, et al,	"	D-435
William C. Dawson, et al,	"	D-404
Robert L. Dawson,	"	D-405
Elbert B. Dawson, et al,	"	D-608
Richard W. Dawson, et al,	"	D-617
Ella L. Spickerman, et al.,	"	D-626
Francis M. Dawson,	"	D-627
Sarah J. Dawson,	"	D-609
John W. Graham, et al,	"	D--23
Gideon Graham, et al,	"	D--35
Mathew A. Painter, et al.,	"	D-836
Charles T. Bradshaw, et al,	"	D-1124
Joe H. Graham, et al,	"	D-1125
John P. Graham, et al,	"	D-1126
Joe Willie Neal,	"	D-1127
James M. Graham, et al,	"	D-1128
Green W. Jackson, et al,	"	D-398
James H. Harmon, et al,	"	D-476
Teshie A. Jackson,	"	D-508
Lizzie Jackson, et al,	"	D830

William G. Lemon, et al,	Cher	D-847
James Love, et al,	"	D-[illegible]
Willie T. Lemon,	"	D-[illegible]
Tommie Woolley, et al,	"	D-[illegible]
Henry T. Richardson, et al,	"	D-716
Zeke Brewer,	"	D-[illegible]
William A. Lawson,	"	D-[illegible]
Alonzo M. Fishback, et al,	"	D-[illegible]
Hiram F. Waddle, et al,	"	D-[illegible]
William D. Deutsitt,	"	D-[illegible]
Florence Morgan, et al,	"	D-737
John E. Fishback,	"	D-[illegible]
George A. Mabry, et al,	"	D-979

PROTEST OF THE CHEROKEE NATION.

Comes now the Cherokee Nation and most earnestly protests against the decision of the Commission as to the persons admitted in the above case on December 23d.,1902, and transmitted to the representative of the Cherokee Nation on January 24th., 1903, and asks that the same be forwarded to the Secretary of the Interior for review, together with a copy of the printed brief heretofore filed with the Commission on the part of the Cherokee Nation in this case.

Of all the cases which the Commission has been called upon to decide this is the most important one, and involves the greatest number of applicants desiring to be enlisted for enrollment as citizens of the Cherokee Nation. We have argued the case most exhaustively, and it is therefore not our intention to go into details in this Protest, but to content ourselves with a few general observations upon the decision of the Commission rendered in this case.

The Act of June 10th.,1896 did not confer any authority upon the Commission to investigate the rights of any persons whose names fraudulently appeared upon any of the rolls of the Cherokee Nation, and during the investigation of citizenship cases by the authority granted the Commission under this Act, the members of the Commission saw that it was absolutely necessary in order that the interests of the Cherokee Nation might rightly be protected, to have some authority given them to investigate the names of persons who had been fraudulently enrolled as citizens of the Cherokee Nation by the various citizenship courts. As we have argued in our general brief, a great number of these same members of this Dawson family, descendants of the same grandmother, applied to the Commission under the Act of June 10th.,1896, and all of the testimony which had been introduced before the various Cherokee Citizenship Courts was introduced before the Commission, and this was supplemented by statements of various members of the Dawson family, yet the Commission as then constituted, and of which A.S.McKinnon, their present attorney, was then a member, said they were not of Cherokee blood, and not entitled to be enrolled as citizens of the Cherokee Nation. These applicants were not satisfied with the decision of the Commission, and under the law appealed to the United States District Court, and after a most exhaustive investigation of their cases, every single one of

them was rejected by the court. The investigation of these cases by the Commission emphasized the necessity for their having some authority to reach those who had heretofore been fraudulently enrolled by the various Cherokee Citizenship Commission ones; and it is an open secret, known generally everywhere, that A.S.McKinnon, who was a member of the Commission in 1896, inserted the clause in Section 21 of the Curtis Bill in order to reach this particular family, that clause being:

"They shall investigate the right of other "persons whose names are found on any other roll, "and omit all such as may have been placed thereon "by fraud, or without authority of law, enrolling "only such as may have lawful right thereto".

Congress never intended that any narrow or technical construction should be placed upon this language; but it was intended to reach all that class of cases who secured their admission to citizenship in the Cherokee Nation by any other than rightful and lawful means. For instance, it is certainly the greatest fraud upon the Cherokee Nation to admit any person who has not Cherokee blood, and if it is proven that these applicants are not of Cherokee blood, then we say it is an outrage to let them stand upon their technical admission by a full-blood court, who really knew noth-

ing about it at the time they were admitted.

The Cherokee Nation contends that two points are clearly unmistakably and convincingly proven before the Commission:

First, that not a single drop of Cherokee blood courses through the veins of any of these applicants.

Second, that they illegally used money with which to secure perjured testimony, and to bribe the attaches of the court and the court itself.

As to the First proposition, it is clearly shown that the only witness of any importance introduced before the Cherokee Commission was one Doctor Arthur Baker, and upon his unsupported testimony, (because we say it is not clear that anyone else was introduced before the Commission), and the testimony of no-one else can be found among the papers, and the testimony of no-one else is relied upon by members of the Dawson family, The Dawsons were admitted in January of 1883. Now, Dr. Baker swears that he was born in 1829, and he swears that he knew the alleged grandmother of the applicant when he was fifteen or sixteen years of age, which would be about 1824 or 1825, and that she was at that time a grown up school girl. Yet the testimony is overwhelming, by all the Dawsons themselves, that their grandmother must have been married and a number of children born to her before Dr. Arthur Baker was born in 1829, and therefore when he says that he knew her as a daughter of Capt. John Rogers in 1824 or 1825 a grown up school girl,

he certainly committed the greatest perjury, because it was admitted that this reliance woman was married and a mother of seven children in 1852. Can any reliance whatever be placed upon the testimony of Dr. Baker? Was he not bribed to commit this perjury? Was not a fraud perpetrated upon the Cherokee Nation? And just here let us say that it makes no difference whatever what the testimony of W. M. Curtis and A. S. McKinnon with reference to Dr. Baker's early reputation for veracity and sobriety was, he unquestionably committed perjury when he testified before the Cherokee Commission in 1888. The Dawsons do not even attempt to defend them him, but W. M. Dawson, the leading applicant in this case admits that his father was born long before Dr. Baker was fifteen or sixteen years of age. However, W. Dawson and Mistress Emma Brashiers both testify that they are descendants of young Samuel Dawson, and that he was born in 1852, and that he was the seventh son of his mother, and that this young Samuel Dawson was the son of old Samuel Dawson and a full brother of Robert and James Dawson, whose names appear in the original judgment as having been admitted by the Cherokee Citizenship Commission. No reliance whatever was placed upon the testimony of any other witnesses. No other testimony could be found before a subsequent Commission, and yet that Dr. Arthur Baker committed perjury is so palpably plain that it seems that anyone should have the hardihood to attempt to defend it. If a defense is made, how are you going to account for the fact that he testifies that he knew

the alleged mother of old Robert Dawson and James Dawson, and that she was a grown up school girl at the time that he knew her, when in fact she was married and had given birth to children prior to his birth? We say it is indefensible. Aside from this, it is clearly shown by W. C. Rogers and his sister, Mistress Sarah Carter, that they are not descendents of Capt. John Rogers, and upon the other hand, it is clearly shown by Mistress Delia A. Brewer that they are not descendents of Alsey Vann, and that no such person ever existed. Again, it was clearly shown by Oliver H. Dawson and Mistress Emma Bruchier, and also by Alexander S. Lewis, that the name of this ancestor, the mother of Robert and James Dawson, and the grandmother of these applicants, was not named Polly Rogers, there never was any such person, but that her name was Annie Pruitt, a white woman, and that she never claimed to be of Cherokee blood. The fact is, these people fall down upon this proposition. They don't attempt to defend it. They ignore their blood altogether. It wont stand investigation. They are white people, and ought not to have ever been admitted to citizenship in the Cherokee Nation. One branch of them came from Arkansas to the Cherokee Nation, and it is perfectly well known to everyone that they committed a fraud upon the Cherokee people when they introduced this perjured testimony and made a deal with the Clerk of the Court, and just what he did with the two full-blood members of the court is not known. We have gone into the questi-

ion of their Cherokee blood to show that they did not have a meritorious case, and that therefore they must have introduced perjured testimony in their case in order to have been admitted by the first citizenship court in 1885. If they are not of Cherokee blood, they could not introduce any honest testimony tending to prove it, and their testimony therefore must have been tainted with perjury. There is no escape from this conclusion. We contend, therefore, that our showing that their case was not a meritorious one, is strongly corroborative of our second contention that they must have been fraudulently admitted. How could they have honestly been admitted if they did not have a meritorious case?

Now, upon the second proposition, ~~ne~~ that they were unlawfully admitted, and fraudulently admitted by the court, we say that this is proven beyond a doubt by a great number of witnesses. First we find Elbert Dawson in the State of Texas making inquiry about the broad, fertile prairies upon which to graze cattle, and he inquires of Charlie Kinney, one of the witnesses in the case, which Nation it would be best for him to go to,; the name of some good lawyer, and the remark that he found "That money made the mare go down in Texas", and intimated that he would use these means in the Cherokee Nation. S. N. Benge, an honored member of the Cherokee Tribe, who was a lawyer in 1882 and 1883, tells of his connection with the case; tells of an adverse decision being rendered against them; tells

of his conversation with F. M. Dawson, who seemed to be leading the fight then as now, and of what Dawson said to him at the time about reaching the court through its clerk, B.W.C.Dawson. The testimony of C.C.Braught is to the effect that he was a claimant at the time; that he was at Tahlequah at the same time along with the Dawsons, andthat they told him if he ever got in that he would have to "put up", and that F. M. Dawson told him "It cost him seven hundred dollars to get in. He said he paid one witness three hundred dollars". Now, the only witness he had was Dr. Arthur Baker, and we have shown above that he unquestionably committed perjury. It was reasonable for Mr. Braught to talk with Dawson because they were both applicants for citizenship at the time. James W. Lewis, another witness, testified that James Dawson told him that it cost him seven hundred dollars to get his rights. This testimony is also corroborated by that of David Meredith, who testified that members of this same family told him that it cost them between eleven and twelve hundred dollars to get their case through. Thomas B. Beavert testified about lending ten dollars upon one night at a colored church to a member of the Dawson family, with which mh to arrange with the attorney for the court so that no testimony would be introduced in their case. Now, it is barely possible that the name of the Dawson was not James, but that was the recollection of Beavert at the time, anyway he knew that it was one of the parties there in the interest of and representing the Dawson family, and they were so numerous

that he could not positively identify the party. The testimony of C. N. Taylor is conclusive and convincing as to how these parties were first admitted to citizenship in the Cherokee Nation, and Taylor is corroborated in every particular. He tells of how much money was used. He tells of the witnesses used. He tells of arranging a meeting between Dawson and Duncan. In fact he unfolds the entire case before the Council on, and because of the fact that testimony was introduced tending to impeach him, his testimony should not be set aside, but should be considered along with all of the other corroborated testimony introduced in the case. Nearly every important thing testified to by Taylor is corroborated by other witnesses. The Dawsons did not have a meritorious case, hence it was necessary for them to use some unscrupulous means in order to be admitted; and they could not find a man readier or handier to use as a tool than this man Taylor, and they used him as a go-between to reach D.W.C.Duncan, and through Duncan the two full-blood members of the court were reached. Taylor is corroborated by S.N.Benge as to money being used upon D.W.C.Duncan, the clerk of the court. He is corroborated by James Lewis, David Meredith, C.C.Draught and Thomas Brewert, and again, he is corroborated by all of these witnesses who were introduced to impeach Campbell Taylor when they state that the Cherokee public generally believed that fraud had been practised in the original admission of the Dawsons, and that the bad reputation of C.N. Taylor grew out of his connection with the Dawson

case, and their admission to citizenship in the Cherokee Nation. The testimony further shows in the case that Tayler was not dismissed from the employment of the Dawsons, but that he was employed in the James Dawson case in 1884, and in nearly every case filed by the Dawsons before the Adair and Ross citizenship courts between 1886 and 1889, hence if Tayler's reputation was so notoriously bad, the Dawsons must have known it, but in order to win an exceptionally bad case without merit, and to secure their fraudulent admission, they must, of course, employ someone of this reputation to carry out their fraudulent intentions.

The two full-blood members of the Tahoe Court are dead, and have long since gone to their reward. The testimony clearly shows that T. F. Thompson, the other member of the Commission, was not present, and that D.W.C.Duncan bided his time like a hawk waiting to sweep down upon its prey, for the absence of T.F.Thompson, so as to fraudulently procure the admission of the Dawson family by the remaining two full-blood members of the court. The first testimony of D.W.C.Duncan is to the effect that Thompson was present and signed the judgment. But when confronted with the original judgment, and other signatures of T.F.Thompson, he had to admit that the signature was his own, and that he in fact had signed all of the names to that judgment. The truth is that T.F.Thompson was not present, and remembers little or nothing about it. The judgment

was rendered in 1883, a long time ago, and he doesn't recollect anything personally about the rendition of the judgment at the time, but only goes by the record, and so far as he knows he alleges that it was an honest judgment, but not being there, and Taylor says he wasn't there, and the record says he wasn't there, and not having signed it himself, his testimony is worthless.

We contend that it was in order to reach just this kind of a fraudulent case that this clause was inserted in Section 21 of the Curtis Bill. The Commission was ordered to make a correct roll, and it was intended to give it plenary power, and never intended to circumscribe its authority by narrow, technical rules. What was intended was for them to thoroughly investigate the names of all parties placed upon the Cherokee rolls subsequent to 1880, and for them to see whether or not their names were honestly upon those rolls. Nothing else could have been the intention of Congress, because the word fraud was intended to be used in its enlarged sense. It was intended to be used to cover bribery, perjury and all illegal means used for the purpose of securing the admission of anyone to citizenship in the Cherokee Nation. The Commission construes fraud to be bribery of the members of the court themselves, and if that narrow construction was intended to have been placed upon this section of the Curtis Bill, Congress might as well have used the word bribery instead. We cannot believe that the grand Government of the United States, our guardian and our protector, will sit by at this

late day, when the Cherokees have consented to a division of their lands, and a distribution of their money, and see the names of a large number of persons belonging to a powerful, influential family, placed upon the final roll of the citizens of the Cherokee Nation, when it is practically confessed that they are white people and not of Cherokee blood. The Cherokee people are now powerless to protect themselves. They are powerless to pass any legislation. The Government of the United States has taken charge of our affairs, and we are appealing to the Government to afford us protection in the elimination of the names of these people from the Cherokee roll.

The Commission in its decision in this case refuses to go behind the original judgment rendered by the Tahlee Court in the Robert Dawson case in 1883. There is no contention that they are Cherokees by blood,--no one believes that. The Dawsons themselves do not attempt to defend it, but the Commission argues that because it cannot be proven that the two full-blood members themselves were bribed or improperly influenced, that they are powerless to grant relief in this case. As above observed, these two men are dead. They were full bloods. Dawson, the clerk, an officer of the court, was the court itself. He waited until T.F.Thompson went away, and what he did while closeted with these two full-blood members we cannot prove. The interpreter of this court is also dead; the sheriff of the court is dead, but when we prove that the Dawsons did not have a meritorious case, and

when we prove by numbers of witnesses that a large quantity of money was used, and when we prove by both Boggs and Tayler that money was paid directly to Duncan, the clerk of the court, and when we show by the impeaching witnesses of Duncan himself that it was the general talk of the country at the time that the Dawsons were improperly admitted, then we say that the necessary inference follows that the court was improperly influenced, and that the Dawson family was fraudulently admitted, and it is within the province of this Commission to eliminate their names from the roll.

The Commission having first determined not to go behind the original Cherokee judgment of the Tahee Court, all through the opinion seeks by ingenious argument to bolster up and sustain their contention. For instance, the Commission intimates that the testimony shows that in addition to the testimony of Dr. Arthur Baker there was also some testimony of Tom Rogers, a Negro, but it is clearly shown that this was never relied upon; that his testimony cannot be found, and that its contents are not remembered by anyone. Again, the judgment calls attention to the fact that Duncan denies what various witnesses stated. Should his testimony be considered as against honorable and reputable citizens of the Cherokee Nation, when it is remembered that he is deeply interested, and that he it was who committed the fraud, and that it was he who gave Duncan money, and in fact, looked after the citizenship case all the way through. Again, the Commission, after reciting the testimony which goes to show the meeting of Duncan and Dawson in a room

at the National Hotel, where they took the "hitch out of the evidence", and after no additional evidence was introduced, and no further argument was made, the next morning decided the case in favor of the Dawsons, attempts to justify this conduct of Dawson with Dawson's own testimony, wherein he denied it, and the Commission takes occasion to say that Taylor's reputation for truth and veracity was impeached, when as shown above, Taylor was corroborated in nearly every particular. Again, the Commission shows that it is attempting to justify this as we believe erroneous decision by saying that there is no proof that two judgments in the case were ever rendered, because the record doesn't show it. Now, S.N.Bangs testifies that there was an adverse judgment, and this is not contradicted by the fact that the record doesn't show it, because as was often the case, and was unquestionably true in this case, the record of the court was first copied upon tablets or legal cap paper, and afterwards transcribed in the book, and the testimony of Duncan is to this effect, and S.N.Bangs says that the adverse judgment was reversed the following morning without any additional testimony; without any additional argument, and taking into consideration the fact that the Dawsons did not have a meritorious case, and what Bangs and Taylor MMM say about Dawson's connection with Duncan, certainly ought to convince any reasonable mind that fraud was used in the reversal of this judgment. It is true that courts reverse themselves, but when they do, it is after mature consideration, after some additional proof, if it be upon a question of fact, or after

some additional argument, and the only additional argument used in this case was that so convincingly put after night by Dawson through the medium of the clerk of the court in a material and tangible form.

Again referring to the testimony of Thomas Denvert, the decision of the Commission says:

"Bribery of officials to use their influence with the Commission would not necessarily vitiate the judgment, but it must appear that the fraud or corruption reached the Commission and tainted the judgment itself. The case was not submitted without evidence as appears from the record, and it is shown that such evidence was carefully considered by that Commission".

Now, we deny that the record shows that there was additional evidence other than that that had already been introduced, it being that of Dr. Arthur Baker and the relation of James Dawson to Robert Dawson, and there is no evidence that it was "carefully considered by the Commission". And the Commission says in its decision that the evidence shows that there was no such person in Tahlequah as James Dawson. Thomas Denvert says there was. He may be mistaken as to name, but he knows that it was a member of the family. Now, who is to be believed in this controversy? Thomas Denvert, a disinterested witness, or the members of the Dawson family? who are parties to and beneficiaries to this fraud. If upon reviewing any bit of testimony, a witness of the Cherokee Nation testifies to one thing, and a member of the Dawson family testifies to another, the Commission immediately decides that the home-

ficiary is to be believed, reversing the whole theory of what weight should be given to evidence. But in this connection it will be noted that James Smith, referred to by Thomas Beavert, was the attorney for the Nation before this Commission, and that the member of the Dawson family wanted ten dollars with which to arrange with James Smith for the Cherokee Nation not to introduce any testimony. Can it be said that the bribery of a Nation's attorney is not such a fraud as will be set aside by a court of competent jurisdiction? Again, the Commission, after reciting the testimony of Clinkenbeard, finds that the testimony of Clinkenbeard "does not prove that Dr. Baker committed perjury in giving his testimony before the Commission", and seeks support for Baker by the evidence of W.H. Curtis and A.S.McKennon, who stated that he was a man of integrity, and not a drinking man. But the Commission is silent upon the point that Dr. Arthur Baker swore he was born in 1809, and that he knew the alleged Polly Rogers when she was fifteen or sixteen years of age; that she was a school girl at that time, which would have been in 1824 or 1825, when in fact this same woman, was the mother of seven children in 1823. James W. Lewis, C. G. Brought and David Meredith all testify to the money said to have been spent by F.M.Dawson and James Dawson in the procurement of their citizenship, and it is argued by the Commission that this money might have been spent in a proper and legitimate purpose. Can it be said, when you look into the details of the testimony of these witnesses, when

this Elbert Dawson said "money made the mare go in Texas, and he thought it would in the Territory", that he used his money in a proper and legitimate way? Or, when F. M. Dawson told Braught that he had spent seven hundred dollars in getting a favorable decision in his case, and that if he wanted to be admitted he would have to "put up", that it was for a legitimate purpose? Can it be said that money given to Duncan as testified to by both Benge and Taylor, that it was a legitimate expenditure? Again Braught testifies that Dawson said that he had arranged with the court (and it must have been through Duncan) to get the Dawsons admitted for one hundred dollars a family.

The Commission further attempts to justify this decision by saying that the evidence only tends to show that Duncan, Butler and Smith are the only beneficiaries of the money. Now, Duncan was the clerk, Butler was then the interpreter, and Smith at that time was the Attorney for the Commission; and the two full-blood members of the Commission are at this time dead, and their testimony cannot be taken. But it is fair to presume that through one of the above officials that the two full-blood members were improperly influenced into rendering this fraudulent decision. But can it be argued that the great Government of the United States, if it be true that Duncan and Butler and Smith received money, is powerless to protect the Cherokee people against this injustice? Shall these people be permitted to practically confess the use of money, and to further confess the fact that they have

not a meritorious case; that they have no Cherokee blood flowing through their veins, and yet be permitted to retain their ill-gotten citizenship, and enforce their claims upon the final Cherokee citizenship roll? It is true, as stated by the Commission in their decision, that the names of the three members of the Commission are appended to the decision, but there is no conflict about the fact that Dawson signed the names of all the members of the Court to this judgment. T.F.Thompson testified at first that he signed it, but he afterwards admits that he was mistaken, and that he knows really nothing about the judgment in the Dawson case other than what the record shows. The Commission further finds that the testimony introduced by the Cherokee Nation for the purpose of showing that the alleged ancestor, through whom the Dawsons claim, is not a Cherokee, is not pertinent; that this matter was once passed upon by a Cherokee Commission; but, as we have urged, we introduced this testimony for the purpose of showing, first, that the Dawsons never had a meritorious case; second, that Dr. Arthur Baker must have committed perjury, because he could not have known the alleged ancestor of the Dawsons as a school girl, as he said he did, and for the purpose of corroborating the other witnesses who testified upon the point of the use of money in the procurement of the first judgment by Robert Dawson in the Tahee Court. The fact is referred to also by the Commission in their decision that only one family of Dawsons was admitted in 1884, and another by the National Council in 1894. But the testimony

clearly shows that no original testimony was introduced in either case; that in the James Dawson case in 1884 the only proof was that James Dawson was a brother of Robert Dawson, who was admitted by the Tahee Court in 1883, and the same is true as to those who were admitted by the National Council by the Act of December 1st., 1884, hence we argue that all of these cases hinge upon the admission of Robert Dawson by the Tahee Court in 1883. None of those subsequent admissions were upon original testimony, but as above observed, upon evidence of their relationship to Robert Dawson. In this connection, we might also urge that hundreds of these Dawsons were rejected by the Adair Court and the W. P. Ross Court, that sat between 1886 and 1889, and we might again call the attention of the Secretary to the fact that this same W.P. Ross was the Chairman of the Cherokee Citizenship Commission in 1889 that rejected various members of the Dawson family, who it is alleged by F. M. Dawson, was his attorney in the examination of the noted Arthur Baker. Ross knew that Baker committed perjury; he knew that ~~the claimant~~ Dawson's claim was fraudulent, and as an intelligent, honest official he and his Commission rejected them. But let us see what the Dawes Commission did with them in 1896. In the Irene J. House case, in the Jessie Barber case, and in the Pauline Lewis case, all members of the Dawson family, descendants of the same ancestors, and all rejected. Each of these appealed their cases to the United States Court for the Northern District of the Indian Territory,

where the decision of the Commission rejecting them was affirmed. And it is contended by the Cherokee Nation that in the investigation of these cases it was shown clearly to the Commission that the Dawsons procured their admission to citizenship by perjury, and the unlawful use of money, and the members of the Commission themselves, in order to rectify this wrong, had this clause inserted in Section 21 of the Curtis Bill, authorizing them to investigate the original admission of this family.

It is further asserted by the Commission in their decision that the members of the Dawson family have been permitted to remain here and live in the Nation a long time, and that Commissions were created who were authorized to investigate the alleged fraud practised in their case, but that this was not done. Now, we deny that the records before the Commission show that a Commission was ever created with authority to investigate this case. What the record does show is that when the Adair Court was created in 1896 the Court was authorized to investigate certain specified cases named in the Act, but the Dawson case was not one of them, and therefore no Cherokee Commission ever had any legal authority to investigate the admission of the Dawson family. But age would never palliate a wrong. If these people were admitted through fraud, the Congress of the United States says that if that fraud was committed since 1898, that it should be inquired into, and the testimony in this case shows, as does the record, that the Dawson family is a large one; that it is possessed

of political influence and power, and that every time an investigation was attempted to be made by the Cherokee Legislature, that sufficient political influence was brought to bear upon the members to stop it.

The record further shows in this case that the original application was made on September 24th., 1881; that it was continued from time to time in order to permit the Dawsons to submit an opportune time to reach the court. In the meantime the personel of the court itself had changed. D.W.C.Duncan became the clerk of the Tribe Court. It had two full-blood members, and one English speaking member. The English speaking member was absent; Duncan and Dawson saw their chance, "took the hitch out of their evidence", made some fraudulent arrangement with the two full-blood members, and a favorable decision was rendered.

We contend that the Cherokee Nation has unistakably shown that these people are not entitled to be enrolled because of not being of Cherokee blood; that they do not have a meritorious case; that they are a fraud upon the Cherokee Nation; that they used money in order to reach the court, there can be no question, and the Cherokee Nation further contends that the power of the Commission is unlimited in redressing a wrong or fraud practised upon the Cherokee people, and that it has the authority under the law to eliminate the name of any person placed thereon by perjured testimony or by bribery of the members of the court, or any of the officials thereof.

We submit this case to the Secretary of the Interior with the earnest hope that the evidence introduced in this case will be patiently considered, and that a wrong practised upon the Cherokee people by our own people will be happily righted by the great Government of the United States, our guardian and protector.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation

Cherokee D--3245

In the matter of the application of Francis M. Dawson, et al, consolidating other cases, for enrollment as citizens of the Cherokee Nation.

PROTEST OF THE CHEROKEE NATION

W. W. HASTINGS,
Attorney for the Cherokee Nation

Before The United States Commission To The Five Civilized Tribes at Muskogee, Indian Territory.

In the Matter of the Application of Francis W. Lawson et al for enrollment as citizens of the Cherokee Nation.
Cherokee D. 384.

Supplemental Brief on part of the Cherokee Nation.

We beg leave to submit the following additional brief on the question of fraud in the procurement of a judgment;

Fraud in Procurement of Judgment.

(1) Effect of, (2) Evidence Necessary.

It is a well settled principle of law, that fraud vitiates every thing, that we deem it unnecessary to cite any authorities, yet the fact that counsel for the claimants have so stubbornly insisted that a judgment can not be disturbed, that a case once passed upon became res adjudicata is sufficient apology for the following:

(1) Effect of Fraud.

"It may be laid down as a general principle that what is done in Fraud in law can not be the basis of a suit in the courts of a country whose laws are attempted to be infringed."

(1 Johns. 424; 81 Iowa 69; 97 Ind. 405; 8 Mo. 333; 111 Ill 178; 102 N. Y. 227; 31 Ia. 260.)

"It is a well settled principle of Equity that fraud vitiates all transactions, even the most solemn contracts, and Judgments are not beyond attack on this ground." (Freeman on Estoppel; Id Res Adjudicata, Sec 321 P. 453) (11 H. Mow. 437; 72 Ind. 374; 70 N. Y 8; and 58 Cal 128.)

Mr Wells on Res Adjudicata, Sec. 499 says: "Fraud vitiates everything, a judgment equally with a contract."

The Supreme Court says in 98 U. S. Cl. " There is no question of the general doctrine that fraud vitiates the most solemn contracts, documents and judgments." "It is a well settled principle of equity that fraud vitiates all transactions, even the most solemn and judgments are

not beyond attack on this ground." (Herman on Estoppel Sec 591)

(3) Character of Evidence necessary.

While most of the proof of fraud and bribery is positive and direct yet it may be, and usually is, proven by circumstantial evidence.

" To establish fraud it is not necessary to prove it by direct and positive evidence. Circumstantial is not only sufficient, but in most cases it is the only proof that can be adduced." (17 Wall. (U. S.) 532; 63 Ala. 561 ; 2 Cal. 107; 58 Mo. 301.

The authorities take even a further step and say:

" If the evidence is sufficient to satisfy the mind and conscience of the existence of the fraud, it will suffice, although it does not lead to a conviction of absolute certainty." (51 Ill 327; 14 Ga. 207; 72 Penn. St. 257; 19 Mich 57.)

Respectfully submitted,

William T. Hutchings

William W Hastings JC

J. G. S.

Attorneys for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Francis M. Dawson et al. for enrollment as Cherokee citizens, consolidating the applications of-

Francis M.Dawson et al	Cherokee	D. [illegible]
John [illegible] n,	Cherokee	D. [illegible]
William [illegible]. Dawson,	"	D. [illegible]
Andrew [illegible]. [illegible]thing et al	"	D. [illegible]
Francis M. Dawson Jr.,	"	D. [illegible]
[illegible] Millard [illegible] et al	"	D. [illegible]
Samuel [illegible]. Dawson et al	"	D. [illegible]
[illegible] Dawson,	"	D. [illegible]
Albert M. Dawson et al	"	D. [illegible]
[illegible] [illegible] et al	"	D. [illegible]
John [illegible]. Dawson et al	"	D. [illegible]
[illegible]	"	D. [illegible]
John Dawson et al	"	D. [illegible]
[illegible] [illegible]. Dawson et al	"	D. [illegible]
Orlo M. Dawson et al	"	D. [illegible]
[illegible] Pierce et al	"	D. [illegible]
William Pierce,	"	D. [illegible]
Charles [illegible]. Pierce,	"	D. [illegible]
Ona Grey et al	"	D. 471
[illegible] Pierce	"	D. [illegible]
John S. [illegible]le et al	"	D. [illegible]
[illegible] [illegible]. Dawson et al	"	D. [illegible]
Wilborn Dawson	"	D. [illegible]
[illegible] [illegible]. Moore et al	"	D. [illegible]
James R. Dawson et al	"	D. 126
[illegible] [illegible]. Blassingame et al	"	D. [illegible]
Albert L. Blassingame et al	"	D. [illegible]
[illegible] [illegible]. Blassingame	"	D. [illegible]
Martin L. Patterson et al	"	D. [illegible]
William C. Dawson et al	"	D. [illegible]
Robert L. Dawson,	"	D. [illegible]
[illegible] [illegible]. [illegible]on et al	"	D. [illegible]
Richards[illegible]Dawson et al	"	D. [illegible]
[illegible] [illegible]. Erickson et al	"	D. 117
Francis M. Dawson	"	D. [illegible]
[illegible] T. Dawson	"	D. 117
John [illegible]. [illegible]rchan et al	"	D. [illegible]
Eldeen [illegible]rchan et al	"	D. [illegible]
Mathew M. Painter et al	"	D. [illegible]
Charles T. Brookshar et al	"	D. [illegible]
[illegible] M. [illegible] et al	"	D. [illegible]
[illegible] T. [illegible]rchan et al	"	D. [illegible]
Joe Willie [illegible]	"	D. 1126
[illegible] [illegible]. Green et al	"	D. [illegible]
[illegible] [illegible]. Jackson et al	"	D. 1122
James M. Harmon et al	"	D. [illegible]
Josphie A. Jackson	"	D. 476
[illegible]mmie Jackson et al	"	D. [illegible]
William G. Lenox et al	"	D. 83[illegible]
James Lowe et al	"	D. [illegible]
Willie T. Dawson	"	D. 83[illegible]
		D. 40[illegible]

Texanna Woolley et al	Cherokee	D. 406
Henry T. Richardson et al	"	D. 715
Etta Brenner,	"	R. 12
Melissa A. Dawson	"	R. 13
Alonzo M. Fishback et al	"	D. 545
Hiram F. Waddle et al	"	D. 521
William D. Douthitt	"	D. 522
Florence Morgan et al	"	D. 737
John E. Fishback	"	D. 845
George A. Mabry et al	"	L. 979

RESPONSE OF APPLICANTS

to

PROTEST OF CHEROKEE NATION.

We submit, as principles of law governing this case:

First. That a judgment can not be attacked, collaterally, for fraud, or any other reason whatever, by parties or privies to the judgment.

Second. The validity of a judgment can not be attacked, collaterally, on the ground that the evidence upon which it was based, was insufficient, or tainted with perjury. Of these matters the judgment is conclusive as to parties or privies to it.

Third. The Cherokee Nation is estopped by its laches from questioning the validity of the judgment of its courts and the Acts of its Council complained of, and the rights of persons claiming under them.

For discussion of these principles of law, we refer to our brief, heretofore filed with the Commission, pages 65-69 inclusive, and the authorities there quoted and cited to sustain them, which, we think, are unanswerable, and which attorneys for the Nation have never attempted to answer.

That the Cherokee court had jurisdiction to render the particular judgment complained of - January 11, 1883 - , we refer to copy of the Act of the Cherokee National Council, creating the court and defining its powers, found on pages 65-66 of our said brief.

The Cherokee Nation was a party to this judgment; it created the court which rendered it; it was rendered by its own officers, and it was represented before this tribunal by its own proper officers, and, if the rules of law above stated are correct, the Nation, being a party thereto, cannot, in this collateral way, attack the validity of the judgment, for fraud, or for any other reason whatsoever. It cannot say that the evidence was insufficient; that the witnesses, giving testimony before the court, committed perjury; or, that applicants have no Cherokee Indian blood. Of these, as of all other matters necessary for the determination of the rights of applicants to citizenship in the Cherokee Nation, the court had jurisdiction; and its findings are conclusive as against all parties and privies to the judgment; and the only manner in which its findings, if erroneous, could ever have been corrected, was by motion to vacate, by an appeal or writ of error, or by a suit in equity to enjoin enforcement of the judgment. These were the Nation's only remedies after the rendition of the judgment; and, having failed to avail itself of such remedies in due time, the judgment is now absolutely conclusive against it, and it must be content therewith.

If our views of the law, and its applicability to this case, as above stated, are correct, then we must look to the Acts of Congress, conferring powers upon the Commission, for its authority to investigate the right of applicants to enrollment as Cherokee citizens; and, failing to find such authority there, all of them, who have complied with the law respecting settlement within the bounds of the Cherokee country, within the given time, who come within the provisions of the judgment, must, as a matter of right, be enrolled as Cherokee citizens.

On pages 57-62, inclusive, of our brief, we have endeavored to present the law upon this subject, and our views thereon, to which we here refer, but we desire to further review the several Acts of Congress prescribing the duties of the Commission, in making rolls of Cherokee citizens, by blood.

The first authority conferred upon the Commission in this regard, was by Act of Congress, June 10,1896, when the Commission was, for a period of ninety days, authorized to receive applications for citizenship and enrollment in the several tribes, of all persons claiming to be entitled thereto, whose rights had been denied, or not passed upon, by the tribal authorities etc; and, thereafter, to decide such applications; after which it was made its duty to make rolls of citizenship of the several tribes In this Act we find this language:

"That the rolls of citizenship of the several tribes,as now existing, are hereby confirmed."

This confirmation of the rolls of the several tribes settled the citizenship of every person whose name was found on any roll or record of the tribe, on which his name was placed as a citizen.

From the well known questionable condition of such rolls, this confirmation was considered too broad to permit corrections of such rolls, as was thought should be made; and, by the Act of June 7,1897, Congress thought proper to modify this language and provided:

"That the words, 'rolls of citizenship', as used in the Act of June 10, 1896, x x x x , shall be construed to mean the last authenticated rolls of each tribe, which have been approved by the Council of the Nation, and the descendants of those appearing on such rolls, and such additional names and their descendants as have been subsequently added, either by the Council of such Nation, the duly authorized courts thereof, or the Commission, under the Act of June 10,1896, and all other names appearing upon such rolls shall be open to investigation by such Commission, for a period of six months after the passage of this Act. And any name appearing on such rolls, and not confirmed by the Act of June 10,1896, as herein construed, may be stricken therefrom by such Commission, where the party affected shall have ten days' previous notice that said Commission will investigate and determine the right of such party to remain upon such roll as a citizen of such nation."

It will be seen by the foregoing language,construing and qualifying the Act of 1896, that the last authenticated rolls made by the tribes, the Acts of Councils, and the judgments of tribal courts were, in specific terms, by this Act of June 7, 1897, confirmed; and the Commission required to respect them as the Acts of the tribal governments; final as to the matters to which they relate.

Up to this date we find it the settled policy of the government to recognize the jurisdiction of the tribal authorities, theretofore exercised, in matters relating to tribal citizenship, and to respect and enforce all their acts relating thereto; and as the Cherokees now so earnestly insist that the judgment of their court in this case be overturned and held for naught, and so eloquently appeal for relief therefrom in their helpless condition, we feel justified here in calling to memory the well known fact that the Cherokee delegations, in Washington during the foregoing legislation, with Mr. Hastings, the greater part of the time, as their leader and spokesman, were asserting the sovereignty of their tribal government, and especially its exclusive jurisdiction in matters of citizenship, and protesting against any interferrence with the actions of the Cherokee tribal authorities relating thereto; and that the provisions of said Acts of Congress were fashioned in respect to such contentions on the part of the Cherokees alone, no other tribe, at the time, objecting to such legislation.

It is left for us now only to determine how far the Act of June 28, 1898, known as the "Curtis Act", repeals or modifies the provisions of the law above stated; and what authority it confers, and what duty it imposes, upon the Commission in making the rolls of Cherokee citizens, by blood. The Act provides:

"(Sec. 21) That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other roll and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

With the exception of the provision that "No person shall

be enrolled who has not heretofore removed to, and in good faith, settled in the Nation in which he claims citizenship", (which is applicable alike in making rolls of all the tribes), the foregoing is the only authority for the making of rolls of Cherokee citizens, by blood; and the provisions thereof are clear and specific, and we think easily understood.

What are the requirements? They are-

First. The Commission is to take the eighteen eighty roll of Cherokee citizens, and enroll all persons now living whose names are found on said roll, and their descendants born since date thereof; this without question. If the name of any person is found on that roll, the Commission has no discretion. It must enroll such name. If he has children born to him since the date of that roll, they are to be in like manner enrolled.

Second. If any person has been, by reason of his Cherokee blood, lawfully admitted to citizenship by the tribal authorities and if he, at the time of his admission, had minor children whose names were not mentioned in the judgment, admitting him to citizenship, and such children had, prior to June 28, 1898, made permanent settlement in the Cherokee Nation, and their names had been placed upon any Cherokee roll, they are to be enrolled by the Commission. The only facts to be found by the Commission are: Was their father or mother, or both, lawfully admitted to citizenship by the Cherokee tribal authorities? Were they, at the time, minors? Were their names ever placed upon Cherokee rolls by the tribal authorities? Had they made permanent settlement in the Cherokee country prior to the date of the Act, June 28, 1898? These questions answered in the affirmative, their enrollment goes of right, and as a matter of course.

If the minor children are to be thus enrolled, it cannot be contended that the parents, so admitted, would not also, in like manner, be enrolled.

The words"lawfully admitted to citizenship by the tribal authorities", constitute the only provision relating to the enrollment of this class of persons,which requires construction at our hands, and we repeat the interrogatory embraced in our brief, page 61;

"Does it mean more than that the Cherokee tribunal, having jurisdiction to hear and determine the application of persons claiming rights to citizenship, has, upon proper application to it, assumed jurisdiction and proceeded to hear and finally determine, the rights of applicants, with all questions incident thereto?"

It certainly does not mean more, and if this be true, then the Commission, upon finding these facts, is required to enroll the persons so admitted, as,also, their children, as above stated

Such judgment of the tribal authorities is conclusive, and, since the Commission is not, by these provisions, specifically authorized to question the validity of such judgment for fraud, or, upon any other ground, it cannot do so. In support of this proposition we call attention to the language following these provisions as to the duty of the Commission in enrolling persons other than those embraced in the two classes above referred to, namely:

"And they shall investigate the rights of all other persons whose names are found on any other roll and omit all such as may have been placed thereon by fraud,or without authority oflaw, enrolling only such as may have lawful right thereto, and their descendant born since such rolls were made."

Here the Commission is specifically authorized to investigate the right of certain persons, and to refuse to enroll such as were placed upon certain rolls by fraud or without authority of law. It is authorized to go into the matter of fraud, and a want of lawful authority for the enrollment. Had it been intended to confer any such authority in either one of the two preceding classes- the eighteen eighty roll people, or the people lawfully admitted by the tribal authorities-, it would have been so expressed. This construction seems necessary, fair and con-

clusive, and, if correct, settles, as against every other consideration, the right of applicants to enrollment; indeed, their enrollment goes of right.

As against this conclusion, the Cherokee Nation, by its attorney, contends that the judgments admitting applicants, may be attacked for fraud and that it is the duty of the Commission to make investigation thereof, upon this ground.

To this we again make answer, that the Cherokee Nation, being a party to the judgment, cannot attack them, collaterally, as in this case.

But should this be overruled, then we insist that such attack would have to proceed according to the rules of law, governing proceedings of like character, in all other cases, and the Cherokee Nation would not, under these conditions, be permitted to show, that applicants did not, in fact, have Cherokee Indian blood, or, that the witnesses for applicants committed perjury in giving testimony in behalf of applicants, or, that the testimony upon which the judgments were based, was insufficient. This would, therefore, exclude all evidence offered by the Cherokee Nation; such as the records and judgments in applications, of other members of the Dawson family, before the Dawes Commission; and the testimony of the witnesses, Della A. Brewer, Samuel Tolliver Dawson, Dana Drashiers and Alex S. Lewis; as to the ancestors of the Dawsons, tending to contradict the evidence introduced before the court, and to show that applicants had no Cherokee Indian blood; which evidence was incompetent and irrelevant and was objected to by applicants.

It matters not what action the Dawes Commission may have taken upon the applications of other members of the Dawson family, made to it under the Act of June 10, 1896. Its decisions could, in no way, and under no rule of law, be competent evidence in this case, for any purpose whatsoever; either to show that applicants had no Cherokee blood, or that there was fraud practiced upon the court which admitted them.

The Nation complains that the judgment in question, was rendered by a full-blood court. The facts are, that two members of the court were full-bloods who could not speak english. The other member was not a full-blood, and could speak english. The Nation endeavored most strenuously, to prove that Judge Thompson, who could speak english, was not present when the judgment was rendered. His name appears upon the judgment in a regular way. It is not proven, and certainly cannot be presumed, that he did not have knowledge of the rendition of the judgment; or, that he disapproved it. It is hardly possible that the former could be so, and, if the latter were so, there is no evidence to that effect, either of record, or from any other source. In his statement, he does not deny that he had knowledgment of the jufgment, nor does he say that he did not approve it. This court,however, was the Nation's own creature, and, if the members of the court were full-bloods and incompetent, it cannot now complain of this fact.

All the evidence introduced for the purpose of showing that there was fraud practiced upon the court, refers alone to the judgment rendered, January 11, 1883, in favor of Robert Dawson and his descendants, by what is known as the "Teehee Court"; and, in no particular, applies to the subsequent judgments of the Cherokee courts, or the Acts of Council, admitting other members of the Dawson family to citizenship; and, if said judgments were vacated for fraud, this could, in no manner, affect the others; they being subsequent and distinctively different adjudications by other courts, and by the Council. The original or first judgment alone, of January 11, 1883, being affected by said evidence.

The evidence tending to show that corrupt means were used in securing the judgment of January 11, 1883, is , we are sure, as the Commission has found, wholly insufficient upon to disturb the judgment, even if this were authorized by the Acts of Congress, conferring authority upon the Commission to make Cherokee rolls.

The brief of counsel for the Nation, heretofore filed before the Commission, consist only of a presentation of testimony adduced upon its part, touching upon facts, which are wholly irrelevant and incompetent; and an unwarranted and cruel arraignment of the Dawson family and their witnesses; and of the dead members of the Cherokee court, who can now make no answer to the Nation's charges against their honor and integrity; and its protest is made up of the same material, adding thereto such criticism of the Commission as would impute to it, an effort and desire to support an opinion and conclusions which it knew to be erroneous and unjust, by an unfair and senseless view of the testimony. How this may aid the Department in disposing of this important case, we are unable to see.

The Cherokee Nation complains bitterly, and pleads piteously that the great Government of the United States does not, but should, correct this great wrong perpetrated upon the Cherokee people; urging its helplessness now to protect itself from such great wrong.

It has been now more than twenty years since this judgment was rendered in favor of Robert Dawson and his family. The Nation claims, and has endeavored to show by testimony, that this judgment was then, and has, all the while since, been notoriously a fraud upon the Cherokee people; and it uses this fact as a circumstance tending to show the corruption of the court, and the impurity of that judgment. All the while, from the date of that judgment, down to the year 1896, a period of more than twelve years, the Cherokee Nation had absolute and exclusive jurisdiction of all matters relating to Cherokee citizenship, its National Council being clothed with unlimited power within itself, or to create courts or commissions, vested with authority, to investigate and correct this blatant fraud; with its Attorney General and other officers to look after and bring to light its hideous deformity. Much of this time Mr. Hastings, its attorney, who writes its complaint and appeal herein, as its Attorney

General

General; and yet no step was taken, during all this period, by the Cherokee Council, its courts, its commissions, or its officers, to set aside that judgment, remove applicants from the rolls of citizenship, or otherwise, in any way, to correct the wrong. But, on the contrary, other courts, and the National Council itself, at various times, assumed jurisdiction of the applications of other members of the Dawson family, adjudicated such applications, and granted to them Cherokee citizenship, because of their Cherokee blood; and, not only this, the Cherokee authorities placed all these applicants upon its rolls, and the Cherokee Council, having full jurisdiction, and charged with the supervision of these rolls, took no action toward having thori names eliminated therefrom; and, when the Cherokee Government was called upon by the Dawes Commission, in 1896, to make rolls of its lawful citizens for the use of the Commission, which should be, be it, authority and direction in making the final rolls of Cherokee citizens, as required by law, upon which roll allotment of lands and distribution of all other Cherokee property and money should be made; the Cherokee Government, as its last act in the premises, and in the exercise of its last authority therein, placed the names of all these applicants upon such roll, and delivered the same to the Commission, thereby, in effect, saying to it: During the long period, from January 11, 1885, down to this date- thirteen long years- we have recognized these people as Cherokee citizens; We have, from time to time, admitted them to citizenship by the lawful and duly constituted authorities of our Government; we have placed their names upon our rolls; and, during all this period, we have accorded to them the right of suffrage as Cherokee citizens; they have voted at our elections; they have served upon our juries, and participated in our judicial proceedings; our courts have assumed and exercised jurisdiction over their lives, their liberties and their property, as Cherokee citizens, subject to such jurisdictio ; They have given up all these rights and privileges in the states from which they

came; we have permitted them to settle upon, improve and make homes upon our lands, and acquire valuable properties thereon; all this we have constantly, continuously and openly done, and have committed no act toward them to the contrary; and your duty is plain, to recognize their rights as we have recognized them; to enroll them as Cherokee citizens, as we have enrolled them; this is your plain duty, and you will not fail to do it.

But, after the Cherokee Nation had lost all of its jurisdiction , in the premises, and had slept and dreamed over the matter for five years, it suddenly, in 1901, awakened from its slumbers, and realized the wrong which had been perpetrated upon the Cherokee people by the admission and enrollment of the Dawsons; and, it now asks the Government to go back over this twenty years of time and review its actions as it had failed to do; declare the judgments of its courts and the actions of its Council void; excuse its laches; undo all it has done, in the exercise of its sovereign power; eliminate the names of these applicants from its rolls, upon which it had placed and, all this while, retained them; confiscate their improvements upon Cherokee lands, which they had made thereon under Cherokee recognition; take from them the homes they have builded there, and drive them from the land as perjurers and criminals.

Will the Government do this? The principles and rules of law, which we have quoted and invoked in our brief, and in this paper, forbid it. Common Justice forbids it. and it cannot be done.

The finding of the Commission in favor of applicants should, and certainly will, be confirmed by the Department, and they enrolled as Cherokee citizens.

Respectfully,

A S Mackennon

Attorney for Applicants.

2,324

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Francis M. Dawson et al for enrollment as Cherokee citizens.

RESPONSE OF APPLICANTS

TO

PROTEST OF CHEROKEE NATION.

Indian Territory
Cherokee Nation
Illewaw District

Personally appeared before me, a notary Public, M. L. Hood who after being duly sworn state: "I am seventy four (74) years old. I was born in the old Cherokee Nation on what is now known as the Hiawassy purchase in the State of Tennessee in the year 1820. I was personally acquainted with Capt. John Rogers and lived near neighbors to him. His family consisted of himself wife and three (3) children, two (2) boys and one (1) girl. This was about 1836. All of the three (3) children died, to my certain knowledge before they were grown and none of them were ever married or left any children. Witness my hand & seal this the 16 day of April 1894

M L HOOD (Seal)

Sworn to and subscribed before me on this April 16-1894

C. G. James
Notary Public

M. L. Hood
Aff. Dawson Can
B.

Indian Territory }
Fort Judicial Dist 3 } Personally appeared before a notary Public, one A G Brought who after being duly sworn states =
That one "Bud" Dawson now a recognized citizen of the Cherokee Nation said to me "That if I won't get my claim through as an applicant to citizenship I would have to pick up. My citizenship cost me seven hundred dollars I paid one writer three hundred Dollars alone"
"I have made an agreement that for one hundred Dollars for heads of families for the admission of the Dawsons with the Cokers."
Witness my hand this the 19 day of Feb. 1894
A G Brought

94
20
24

Sworn to & subscribed before me this the day & date above written
A G James
Notary Public

Affdvt. in Brought Dawson Case

F

JOHN T. DREW,
ATTORNEY AT LAW.

Tahlequah, I. T., ... 189

To the Hon.
National Council

Gentlemen: Your committee to whom was referred the joint resolution appointing 2 members of the Senate & 3 of the Council to investigate the case of Robt Dawson et al after due examination and investigation into all the facts attainable respectfully recommend that the said joint resolution be passed and the said joint Committee be appointed to investigate the said Dawson Case

L Dobson Ch'n
Standing Com, National Council

Wm A Thompson
Clerk Standing Committee.

Committee Room Dec 6th 1894

I do hereby be certify the above to be a true and correct Copy of the original as shown me by John T. Drew.

Robert T. Hawks
Asst Executive Secty

Report of Comty:
of Lordships house
Certified Copy

E

Mabroy
Frohlich
Flowerday

United States of America
Indian Territory
Northern District ss

Personally appeared before me the undersigned notary Public for the northern District of the Indian Territory Samuel H. Benge who being by me first duly sworn an oath deposes and says: "my name is Samuel H. Benge, my post office is Fort Gibson, Indian Territory and my age is seventy years. I am a Cherokee by blood and have held various official positions in the Cherokee nation among them, member of the Council member of the Senate delegate to Washington D.C. and am the last surviving signer of the treaty of 1866. I am acquainted with one Francis M. Dawson who applied to the Cherokee Commission on citizenship about the year 1881, and I was attorney for said Francis M. Dawson in his own behalf and for the other Dawsons whose cases he managed with his own case

The Dawson case was continued from time to time and ~~when~~ it came up for final hearing before the Tehee Court - we made many trips to Tahlequah and continued the Dawson case from time to time waiting for testimony and finally I submitted the case to the Tehee Court and a decision was had by that Court rejecting Francis M. Dawson. I was in the Court room when this decision was rendered and was sitting by the side of Francis M Dawson and I told him that we were beaten and that our cake was dough and he said to me, ~~that~~ "Never mind that I'll fix that up."

I never filed any motion to reconsider the case and never put in any new testimony.

I was present in the Court room on the following day and the case of Francis M. Dawson was called up again and reconsidered and a decision was then rendered admitting Francis M. Dawson and all those for whom Francis M Dawson had made application - When the case was reconsidered no new testimony was introduced and the last decision was made on the same testimony that the Commission had the day before rejected the Dawson case on.

I left Tahlequah and went to Fort Gibson and

travelled in the same
Conveyance with Thomas
M Dawson and on the
road to Fort Gibson I said
to Dawson that the
Court had done us
up the day before when
it rendered its first
decision rejecting the Thomas
M Dawson case, and
Dawson told me that it
was all right, and
he had to pay D.W.
C. Duncan, Clerk of the
Commission five hundred
Dollars to get it fixed
up the last time - Thomas
M. Dawson further said
at that time that it
had cost him a
great amount of money
and also said to

me "Benge Do you think they will ever investigate this case" and I told him I did not know whether they would or not — Francis M. Dawson said to me on the way to Fort Gibson that "In this citizenship business that D.W.S. Duncan, the Clerk of the Commission was the man to reach and he did reach him with five hundred Dollars".

Samd H Benge

Subscribed and Sworn to before me this 15th day of March 1902

J. C. Clark
Notary Public

Afton. I. T.
Jan. 24th 1902

Hon. Wm. Hasting
Muskogee. I. T.

Dear Sir.

I understand that the Danson case will come before the commission March the 17th 1902. I respectfully call your attention to a few persons of the Danson blood. there is Senate Lowe. James Lowe. Wm Jackson Josaphene Bulamskey. that was of age when there parents were admitted to citizenship this you will find out by examining the Records.
in Regard to the Blasingames that comes in under the Danson Blood. their mother were ~~were~~ admitted the same time that the Rest of the Dansons were. but she never moved to the N. T. and ~~their~~ her children did not come to this country until about 5 years ago therefore forfeiting their Rights by non Residence. for over 8 years.
Please Give this your attention if you want any witnesses

in the Blasingame case I will
Refer you To. S.H. Rule.
Geo. Armstrong.
Jas Young.
J. L. Courtney.

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. B. DAVENPORT
J. C. STARR, SECRETARY

...OFFICE OF...

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

Muskogee I. T. March 8th 1902.

Mr. T. L. Clinkenbeard,

Vinita I. T.

Dear Sir:

Inclosed herewith I send you a subpoena to appear here at Muskogee on March 17th 1902 . Please acknowledge receipt on the back of the subpoena and return same to me here in the inclosed return envelope; If however you can come down tomorrow, come on, as your expenses will be paid any way because I would like to consult with you in advance; if you can not get off please come down on next Sundays flyer being the noon train here.

Write me when I may expect you.

Yourstruly,

Attorney for the Cherokee Nation.

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. B. DAVENPORT

J. C. STARR, SECRETARY

No. F. D.

...OFFICE OF...

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

Muskogee I. T. March 8th 1902.

Mr. Bill Smith,

Woodward, Oklahoma.

Dear Sir:

I have been advised that you will make a good witness for the Cherokee Nation in a citizenship case of some importance to the Cherokee Nation and I therefore write you as Attorney for the Cherokee Nation to kindly be present on the early morning ~~xxxxx~~ of the 17th of this month at this place.

Inclosed I send you a subpoena and a place upon the back for you to sign and also a stamped envelope ~~xxx~~ so you can accept servie and mail the same to me.. Your expenses including your mileage and per diem will be paid by the Cherokee Nation whether your testimony is important or not I trust therefore that you will come at that time because the case in which we desire to take your testimony can not perhaps be longer continued.

Yours truly,

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. S. DAVENPORT
J. C. STARR, SECRETARY

...OFFICE OF...

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

Muskogee, I. T. March 8th 1902

Mr. S. R. Lewis,

Dawson I. T.

Dear Sir:

Inclosed find a subpoena on C. D. Kinney who lives nr near Owasso I. T. to be and a appear here as a witness on the morning of the 17th of this month. You tell him to leave home so as to be here on the noon train of the 16th that being the day before as I want to see him before the day of trial. Please have him to accept service or rather sign his name on the back of this subpoena and date it and return it in the inclosed envelope. You can send us a bill for your expenses in going over there and sign the inclosed receipt for the same and return it and your expenses will be paid.

I also inclose a subpoena for Bill Smith who I see from a statement made by C. D. Kinney lives at Woodward Oklahoma. Please have kinney write Smith and inclose a subpoena and ask him to accept service and inclosed I send a stamped envelope for him to return the subpoena here to me so

SUBPOENA.

INDIAN TERRITORY, }
Cherokee Nation, } ss.

TO ANY LAWFUL OFFICER:

You are commanded, in the name of the Cherokee Nation, by authority of an Act of the National Council of the Cherokee Nation, entitled "An Act making provision for the representation of the Cherokee Nation in the completion of the roll of the citizens of the Cherokee Nation, and for other purposes," approved by the Principal Chief of the Cherokee Nation, December 19, 1901, and by the President of the United States, January 20, 1902, to summons A. S. Lewis & T. P. Lewis -

to be and appear before the United States Commission to the Five Civilized Tribes, at Muskogee, I. T., on the 17 *day of* March *, A. D. 1902, then and there to give evidence in such contested citizenship cases as the representatives of the Cherokee Nation may desire.*

Dated March 8th 1902 -

W. W. Hastings

Attorneys for the Cherokee Nation.

No.

I, hereby accept service of the within instrument on this the 8th day of March, 1902

Alex G. Lewis

E P Irwin

SUBPOENA.

INDIAN TERRITORY, }
Cherokee Nation, } ss.

TO ANY LAWFUL OFFICER:

You are commanded, in the name of the Cherokee Nation, by authority of an Act of the National Council of the Cherokee Nation, entitled "An Act making provision for the representation of the Cherokee Nation in the completion of the roll of the citizens of the Cherokee Nation, and for other purposes," approved by the Principal Chief of the Cherokee Nation, December 19, 1901, and by the President of the United States, January 20, 1902, to summons C. D. Kinney

to be and appear before the United States Commission to the Five Civilized Tribes, at Muskogee, I. T., on the 17th *day of* March *, A. D. 1902, then and there to give evidence in such contested citizenship cases as the representatives of the Cherokee Nation may desire.*

Dated March 8 1902

T. M. Harding Jr

Attorneys for the Cherokee Nation.

No. D. 324.

to D Kenney
march the 12
192

SUBPOENA.

INDIAN TERRITORY, }
Cherokee Nation, } ss.

TO ANY LAWFUL OFFICER:

You are commanded, in the name of the Cherokee Nation, by authority of an Act of the National Council of the Cherokee Nation, entitled "An Act making provision for the representation of the Cherokee Nation in the completion of the roll of the citizens of the Cherokee Nation, and for other purposes," approved by the Principal Chief of the Cherokee Nation, December 19, 1901, and by the President of the United States, January 20, 1902, to summons T. L. Clinkenbeard,
Vinita I. T.

to be and appear before the United States Commission to the Five Civilized Tribes, at Muskogee, I. T., on the 17th *day of* March *, A. D. 1902, then and there to give evidence in such contested citizenship cases as the representatives of the Cherokee Nation may desire.*

Dated March 8th 1902.

W. W. Hastings

No. C. D. 324. *Attorneys for the Cherokee Nation.*

I, hereby accept service of the within Instrument on this the

day of [illegible], 190[illegible]

[illegible]

SUBPOENA.

INDIAN TERRITORY, }
Cherokee Nation, } ss.

TO ANY LAWFUL OFFICER:

You are commanded, in the name of the Cherokee Nation, by authority of an Act of the National Council of the Cherokee Nation, entitled "An Act making provision for the representation of the Cherokee Nation in the completion of the roll of the citizens of the Cherokee Nation, and for other purposes," approved by the Principal Chief of the Cherokee Nation, December 19, 1901, and by the President of the United States, January 20, 1902, to summons

L H Gaylor

to be and appear before the United States Commission to the Five Civilized Tribes, at Muskogee, I. T., on the 17th *day of* March *, A. D. 1902, then and there to give evidence in such contested citizenship cases as the representatives of the Cherokee Nation may desire.*

Dated 3/10-02

W. W. Hastings

Attorneys for the Cherokee Nation.

No.

I, hereby accept service of the within
Instrument on this the
10 day of March, 190 2
C H Taylor

Fort Gibson, I.T.
March 1902

W. W. Hastings

My dear Sir it is impossible for me to go to Muskogee, I am sick, I am in a bad shape, I have the kidney & bladder trouble, when urinate nothing but blood passes from me, my kidneys almost kills me, I just can't go.

Respt yours
J. H. Bunge

H. H. GREEN, President, Tahlequah.

OFFICE OF

S. R. LEWIS, Secretary, Dawson,
G. P. HEFFLEFINGER, Treas., Dawson.

DAWSON TOWNSITE CO.

DAWSON, IND. TER. Mar. 12th 1902

Hon. W. W. Hastings
Muskogee I.T.

Dear Sir:—

Your letter of the 8th inst. with subpoenas for C. W. Tinney and Bill Smith received, and in reply to the same I will say that I went to Tinneys home soon after receipt of your letter and found that he was in Vinita, so I left copy of subpoena with his family to give him upon his return, and told them to have him report to me at once, and that I would let him have the money to go to Muskogee on, and that he should be there by the 14th inst.

I also wrote Bill Smith and enclosed copy of his subpoena, and requested him to write you whether he would be there by

H. H. GREEN, President, Tahlequah.

OFFICE OF

S. R. LEWIS, Secretary, Dawson,
G. P. HEFFLEFINGER, Treas., Dawson.

DAWSON TOWNSITE CO.

2

DAWSON, IND. TER. _____ 1902

the 16th inst. or not and also told him that his mileage and per diem would be paid by the Cherokee Nation. Also that he was expected to give evidence as to when Brett Dawson and Tilla Flippin left Texas for the Cherokee Nation and what they said to him. and Tinney about their rights. My mother is not able to come down, and she would be of very little assistance to you in the case, as you already a brief history of the family.

Rice Short of Collinsville I.T. would probably be of some assistance to you in this case, as his wife is the daughter of T. J. Berber, and he knows considerable about the D— family. he is about 60 years of age and was well acquainted with my grandfather D— in Texas, his wife's

H. H. GREEN, President, Tahlequah.

OFFICE OF

S. R. LEWIS, Secretary, Dawson,
G. P. HEFFLEFINGER, Treas., Dawson.

DAWSON TOWNSITE CO.

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DAWSON, IND. TER. _____ 1902

citizenship case was rejected by the Commission in 1896.
I know of two other parties who I believe would make good witnesses for the Nation in this case and will try and see them for you. One of them lives at Claremore I.T.
If you should need me in this case wire me and I will come on first train.
Please find enclosed receipt signed for $3.00 for trip to Tiney's.

Yours Very Truly
S. R. Lewis.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-324--

Muskogee, Indian Territory, January 24, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:-

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 23, 1902, granting the application for the enrollment of Francis M. Dawson, Lula Dawson, Ray Dawson, Jessie J. Dawson, Jacob L. Dawson, Hugh A. Dawson, Laura A. Dawson, John Dawson, William R. Dawson, Lizzie Atkins, Arthur Atkins, Edna E. Atkins, Edward C. Atkins, George J.F. Atkins, Francis M. Dawson Jr., Samuel R. Dawson, August Dawson, Nate Dawson, Robert Dawson, Albert H. Dawson, Ralph H. Dawson, Alford Dawson, Josephine Bulawsky, Dora Bulawsky, Ida Bulawsky, Annie Bulawsky, Blanche Bulawsky, May Bulawsky, Oscar Bulawsky, John W. Dawson, Katie Newman, John Dawson, Robert B. Dawson, Iola M. Dawson, Lemuel H. Dawson, Rosa B. Dawson, Charles B. Dawson, Hattie J. Dawson, Jennings B. Dawson, James U. Dawson, Vergal C. Dawson, Thomas P. Dawson, Marice J. Dawson, Orle H. Dawson, Burr R. Dawson, James W. Dawson, Robert Pierce, Myrtle Pierce, Arthur Pierce, Charles E. Pierce, Oma Gray, Cecil Gray, Velton Gray, Effie Akin, Nancy J. Bogle, James E. Bogle, Edna N. Bogle, John H. Bogle, Marvin R. Bogle,

Claud Bogle, Nancy Edith Bogle, Joseph R. Dawson, Clarence E. Dawson, Council J. Dawson, Elmer A. Dawson, Cleo Dawson, Rufus T. Dawson, Wilborn Dawson, Edgar Dawson, James R. Dawson, Vinnie D. Dawson, Ermine C. Dawson, Edwin C. Dawson, Ancil F. Dawson, Mollie Moore, Nora Moore, Walter Moore, Clara Moore, Ora Moore, James W. Moore, Edna E. Moore, Henry A. Blasingame, Vinnie C. Blasingame, Elbert L. Blasingame, Ellis W. Blasingame, Earl D. Blasingame, Alexander Blasingame, Jr., Elmer H. Blasingame, James R. Blasingame, William A. Blasingame, George L. Blasingame, Grace D. Blasingame, Zona Patterson, Sarah A. Patterson, Martha A. Patterson, Claud A. Patterson, Edgar D. Patterson, Thomas M. Patterson, Vergil V. Patterson, William C. Dawson, Robert L. Dawson, Elbert B. Dawson, Ralph E. Dawson, Richard W. Dawson, Ina E. Dawson, Ella L. Spickerman, Hellen J. Spickerman, William Glenn Spickerman, Missouri Graham, Tempa V. Graham, Robert S. Graham, Gideon Graham, John W. Graham, Julius E. Graham, Francis W. Graham, Mary E. Graham, Jesse E. Graham, Gracie M. Graham, Florence M. Graham, Laverna A. Painter, Ada R. Painter, Eva P. Painter, John W. Painter, Ray D. Painter, Roberta A. Painter, Roy V. Painter, Florence P. Bradshaw, Myrtle Bradshaw, Claude Bradshaw, Joe E. Graham, William C. Graham, John F. Graham, Edna M. Graham, Robert Lee Graham, Joe Willie Neal, James M. Graham, Marion Graham, Maggie Graham, Luther Graham, Floyd Graham, Ella Jackson, Flora Harmon, Lillie R. Harmon, Claud Harmon, Dwight Harmon, William D. Harmon, Toshie A. Jackson, Fannie Lenox, Birtie E. Lenox, Myrtle Lenox, Texanna Woolley, Irene W. Woolley, Wilburn E. Woolley,

Kittie Richardson, Edgar Flournoy, Walter Flournoy, Alice Flournoy, Laura Flournoy, Oscar Flournoy, Claude Flournoy, Edna Flournoy, Finis T. Richardson, Jasper C. Richardson, Delia F. Richardson, Etta Brauer, Lula Pearl Weddle, Curtis Weddle, Morris O. Weddle, Roy Weddle, William D. Douthitt, Laverna A. Fishback, William A. Fishback, Annie B. Fishback, Florence Morgan, Clide Morgan, Alice A. Morgan, John E. Fishback, Edna Mabry, Roby Mabry and Charley Mabry as citizens by blood of the Cherokee Nation, and for the enrollment of Katie Dawson, Andrew C. Atkins, Catherine Dawson, Sarah F. Dawson, August Bulawsky, Nannie Dawson, Sarah J. Dawson, Nellie Pierce, John S. Bogle, Florence Dawson, Martha A. Dawson, Charles T. Moore, Ida Blasingame, Mary A. Blasingame, Martin L. Patterson, Alice Dawson, Sarah J. Dawson (nee Jones), John W. Graham, Elizabeth Graham, Mathew A. Painter, Charles T. Bradshaw, Bessie Graham, James H. Harmon, William C. Lenox, Millie T. Dawson, Henry T. Richardson, Melissa A. Dawson, Hiram F. Weddle, and Alonzo M. Fishback as citizens by intermarriage of the Cherokee Nation; rejecting the application for the enrollment of Arizona Allred, William C. Allred, Francis M. Dawson, Osie Jackson, Lizzie Jackson, Jessie Jackson, Ray Jackson, Clyde Jackson, James Lowe, May Lowe, Zelma Lowe, Roberta Lowe and Rosa Lowe as citizens by blood of the Cherokee Nation, and for the enrollment of Lizzie Jackson and George A. Mabry as citizens by intermarriage of the Cherokee Nation; and dismissing the application for the enrollment of William Pierce, Cecil Dawson, Green W. Jackson, Liddie Graham and Margaret Graham.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. M-130

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. S. DAVENPORT
J. C. STARR, SECRETARY

OFFICE OF

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

D. 324

Vinita, Indian Territory, February 6th.,1903.

The Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:-

Under separate cover by registered mail I forward you the Protest of the Cherokee Nation against the decision of the Commission rendered December 23d.,1902, but transmitted to me by letter of date January 24th.,1903, in the F. M. Dawson case, Cherokee D-324, and in all of the other Dawson cases consolidated into one case. And in addition to the Protest I also enclose you two copies of a printed brief heretofore filed before the Commission for its consideration, with the request that the Commission forward one of said copies to the Commissioner of Indian Affairs, and the other to the Secretary of the Interior for use in reviewing the decision rendered by the Commission in said case. Copies of these printed briefs were heretofore furnished the Commission, who transmitted them to the attorneys of record in this case. Attached to this Protest, you will find proof of service of a copy of the Protest of the Cherokee Nation upon both the principal applicant, F.M.Dawson and A.S.McKennon, their attorney of record in the case. Please kindly advise me whether or not you will transmit these printed briefs as requested in this communication.

Yours very truly,

W. W. Hastings

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON ADAMS AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-324

Muskogee, Indian Territory, February 10, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of February 6, stating that you, on that date, forwarded to the Commission by registered mail your protest against the decision rendered in Cherokee case D-324, F. M. Dawson et al. You also stated that you forwarded two copies of printed brief in that case, and you asked that these be transmitted to the Department with the Commission's decision.

In reply, you are advised that these documents have been received and will be transmitted to the Secretary of the Interior, together with the record and decision of the Commission in this case.

Respectfully,

Acting Chairman.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-324

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 25, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that there has this day been transmitted to the Secretary of the Interior, for review, the record of proceedings had in the matter of the application of Francis M. Dawson et al., for enrollment as citizens of the Cherokee Nation, together with the Commission's decision in said case, and the protest of the Cherokee Nation against said decision, dated February 6, 1903.

The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Chairman.

(COPY)

I.T.D. 7442-1903.

JRW
WCP
SVP

DEPARTMENT OF THE INTERIOR

OFFICE OF THE ASSISTANT ATTORNEY GENERAL

WASHINGTON.

February 18, 1904.

The Secretary of the Interior.

Sir:

I am in receipt, by reference of December 29, 1903, of the report, October 16, 1903, of the Commissioner of Indian Affairs, transmitting the proceedings of the Commission to the Five Civilized Tribes upon the application of Francis M. Dawson and others (230 persons) for enrollment as citizens by blood of the Cherokee Nation, with request for my opinion--

as to the powers and duties of the Commission and the Department in cases of this class, that is, where persons have been admitted to Cherokee citizenship by tribal acts and decrees, where fraud is alleged.

If, in your opinion, the Department has the authority to investigate cases of this kind, it desires to be advised:

1. What character of evidence is sufficient to warrant such investigation?

2. If proper evidence of fraud exists, should applicants be rejected or allowed a rehearing to show, if possible, other and lawful grounds for enrollment?

3. In this, the Dawson case, what action should now be taken by reason of the alleged fraud?

Part of the applicants claim under judgments of the Cherokee Citizenship Court of January 11, and September 14, 1883, admitting them or their ancestors to citizenship, and others claim,

as stated by the letter of reference, under act of the National Council, approved December 1, 1894, granting such admission. Counsel for the nation oppose enrollment of those claiming under the judgments, on the ground that they were procured, as it is claimed, by bribery of the clerk of the court and by perjured testimony.

The ground of objection to enrollment of those claiming under the act of the Council does not appear to be discussed in the briefs submitted in the cases based upon judgments of the citizenship court, which are transmitted with the papers.

The Commission admitted the applicants to enrollment, and states the ground of its decision, that:

> It is the opinion of this Commission that it has no power, and that it is not the purpose of this proceeding, to review or to set aside the judgment in the Dawson case, or to determine such questions as were necessarily involved in the issues before the Cherokee Commission, and were passed upon by that Commission. In United States vs. Throckmorton, 98 U. S., page 61, it is stated, "the doctrine is well settled that the Court will not set aside a judgment because it was founded on perjured testimony or for any matter which actually presented and considered in the judgment assailed." Only such facts therefore are considered by this Commission as were not part of the record in the Robert Dawson case before the Teehee Commission, and which tend to show whether the judgment admitting the Dawsons was a bona fide judgment of the Teehee Commission, or whether such judgment is void because of fraud, and upon this proposition the burden of proof is upon those attacking the judgment.

The duties of the Commission as to persons (not freedmen) claiming enrollment are defined by the first paragraph of section 21 of the act of June 28, 1898 (30 Stat., 495) 502), which directed

the Commission to enroll all Cherokees (except freedmen) found on the roll of 1880 and descendants afterward born to them, and--

all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws.

As the principal applicants here claim by enrollment after 1880, their cases must be determined under the provision above quoted. The principal applicants were admitted and enrolled by tribal authority, made permanent settlement in the nation, and have ever since resided there. The question is, whether the Commission may investigate as to the fact of the Cherokee blood of the principals admitted by judgments of the Citizenship Court, and upon a charge that the judgments were fraudulently procured.

It appears that a citizenship court or commission was established in the Cherokee Nation which, January 11, 1883, on an application duly filed in the court, and after taking and considering evidence, adjudged that Robert Dawson, F. M. Dawson and others named --

are Cherokees by blood and that they are entitled to all the rights and privileges of Cherokee citizenship within the Cherokee Nation, and that they should be, and they are hereby admitted to the full and complete enjoyment of the same in all respects as native born Cherokees.

Other applicants related to those thus admitted were admitted, September 14, 1883, by a similar decree and similar Commission, constituted of different persons. These decrees were duly recorded in the records of these tribunals, and no appellate or original proceeding was ever taken to reverse, modify, or vacate them. The parties so admitted were then living in the nation or soon after removed there, and have ever since resided therein, identifying themselves with the Indian community and co-operating to its development and progress. They have built homes, improved lands, accumulated property, have always been recognized as Cherokees, been chosen to office, participated in the conduct of national affairs, been borne on its various rolls, participated in distribution of public moneys, and for twenty years have been in fact recognized as Cherokee citizens. When they apply for enrollment by the Commission to the Five Civilized Tribes they are met by the objection that they have in fact no Cherokee blood; that the testimony upon which the original decree was rendered (the witness being now dead) was perjured; that the first petitioner (now dead) corrupted the court (two of whom are now dead), and the present applicants, none or few of whom are charged with wrong-doing, must give up their lands and homes to those who have not improved, cultivated, or built them, lose the nationality to which many of them have been born, and all are loyal, and seek elsewhere a new nationality, establish new homes and work out a new heritage.

Assuming for the moment that the charge were fully proven,

the result contended for does not, in my opinion, follow. It is said by Freeman on Judgments, section 435, 4th edition, that "the defendant in an action upon a judgment is never permitted to show that it was procured by perjury," citing Demerritt v Lyford (27 N. H. 541), and Cottle v Cole (20 Ia., 481. The same author says, section 503, that "equity will not relieve (against a judgment) on the ground of the absence of a witness who with diligence could have been procured, nor on the ground that a witness was guilty of perjury, nor because the suitor was absent from court, for it is his business to be there," citing Gott v Carr, 6 Gill & J. (Md), 309, and Dilly v Barnard, 8 Gill & J., 171. Again, section 289, the author says:

> The settled policy of the law forbidding that a matter once adjudicated shall be again drawn in issue while the former adjudication remains in force does not permit the prosecution of an action for obtaining a judgment by false and fraudulent practices, or by false and forged evidence. Neither can a party against whom judgment has been recovered sustain an action against his adversary and the witnesses for damages occasioned by their conspiring together and procuring a judgment by fraud or perjury, as long as the judgment remains in force and unreversed; (citing)

Hillsborough v Nichols, 46 N. H. 379; Engstrom v Sherburne, 137 Mass. 153; Note 265, by C. L. & E., to Phillipps on Evidence; Dunlap v Glidden, 31 Me. 435; 52 AM. Dec 625, ... Cunningham v Brown, 18 Vt. 123; 46 Am. Dec. 140; Smith v Lewis, 3 Johns. 157; 3 Am. Dec. 469.

The general rule is that judgments of every tribunal having jurisdiction, while remaining in force and not reversed or vacated, are conclusive upon the matters adjudged and not open to

question in a collateral proceeding. This rule was fully sustained by the court in United States v Throckmorton (98 U. S., 61, 65, et seq.), wherein the United States sought to cancel the patent to lands issued upon a decree for confirmation of a Mexican land grant, obtained as it was charged by a fraudulently antedated grant.

Nothing in the act in question indicates that a rule of law so wholesome, so essential to the stability of judgments, and to the peace of society, was intended by Congress to be abrogated. I am therefore of the opinion that judgments of the Indian tribal courts upon the question of Cherokee blood, left for years in force, unquestioned, and which never have been vacated, should be held conclusive upon the nation, and that the Commission correctly so held.

It is proper, however, here to remark, in justice to the dead applicant and the judges, that the evidence in the record, in my opinion, falls far short of showing improper conduct or motive on their part, or even to show error in their judgment. The strain of Cherokee blood claimed by the Dawson family originated in a marriage contracted prior to about 1823, so remote in time that it could only be established by persons already old in 1882. It could now be neither proved or disproved by direct testimony of any one living, and is capable of proof only by family tradition, dimmed by the lapse of almost a century. It is obvious that judgments ought not to be brushed aside and rights supposed to be vested to be struck down on

that kind of evidence and in a collateral proceeding. I am therefore of the opinion that no action for correction of the alleged fraud ought to be taken as to those cases standing upon the adjudications.

As to the cases standing upon the acts of admission of the Cherokee Council, the same result follows, but for other reasons. This was a legislative grant. The Cherokee Council had plenary power to grant rights of citizenship. Being a legislative body, it was not bound by technical rules of evidence obligatory upon judicial tribunals. It might act on any evidence satisfactory to itself of the fact of Cherokee descent, or it might grant citizenship to one not of Cherokee descent. Having made the grant, neither its motive nor the sufficiency of the evidence moving it, is open to question. That it did act and make the grant is alone and of itself sufficient.

Very respectfully,

(signed) Frank L. Campbell
Assistant Attorney General.

Approved: February 18, 1904.
E. A. Hitchcock
Secretary.

COPY

JP
WHR
LRS

D. C. 6786-1904.

ITD 7442-1903.
1432-1904.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

February 24, 1904.

The Commission

to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

There is transmitted herewith a copy of an opinion of the Assistant Attorney General for this Department of February 18, 1904, approved by the Department, relative to the application of Francis M. Dawson, et al., for enrollment as citizens of the Cherokee Nation.

The Department will in due time dispose of the cases involving the applications of these claimants and consider any other questions that may be involved.

Respectfully,

(signed) Thos Ryan

Acting Secretary.

1 inclosure.

MDG

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D-324

Muskogee, Indian Territory, March 7, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed for your information, copy of the opinion of the Assistant Attorney General, dated February 18, 1904, relative to the application of Francis M. Dawson et al., for enrollment as citizens of the Cherokee Nation, together with a copy of the Department's letter of February 24, transmitting said opinion.

Respectfully,

Commissioner in Charge.

Enc. D-3.

MOG

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 324,
et al.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, April 12, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated December 23, 1902, in the consolidated case of Francis M. Dawson, et al., granting the applications for the enrollment of (Francis M., Lula, Ray, Jessie J., Jacob L., Hugh A., Laura A.), (John), (William R.) and Francis M. Dawson, Jr., Lizzie, Arthur, Edna E., Edward C., and George J. F. Atkins,) (John W., Albert H., Ralph H., Alford) (Samuel R., August, Mate) (and Robert Dawson,) (Katie Newman) Josephine, Dora, Ida, Annie, Blanche, May and Oscar Bulawsky,) (John, Robert B., Iola M., Lemuel H., Rosa B., Charles B., Hattie J., Jennings B., James U., Vergal C.,) (Thomas P., Mariee J.) (Orle H., Burr R. and James W. Dawson,) (Ella Jackson,) (Flora, Lillie R., Claud, Dwight and William D. Harmon, Toshie A. Jackson, (Fannie, Birtie E. and Myrtle Lenox,) (Missouri, Tempa V., Robert S.) (Gideon, John W., Julius E., Francis W., Mary E., Jesse E., Gracie M. and Florence M. Graham,) (Laverna A., Ada R., Eva P., John W., Ray D., Roberta A., and

Roy V. Painter, Florence P., Myrtle and Claude Bradshaw, Joe E., William C., John F., Edna M. and Robert Lee Graham, Joe Willie Neal, James M., Marion, Maggie, Luther and Floyd Graham, Mollie, Nora, Walter, Clara, Ora, James W., and Edna Edith Moore, Richard W. and Ina E. Dawson, Ella L., Hellen J. and William Glenn Spickerman, Elbert B., Ralph E., Robert L., and William C. Dawson, Zona, Sarah A., Martha A., Claud A., Edgar D., Thomas M. and Virgil V. Patterson, Joseph R., Clarence E., Council J., Elmer A., Cleo, Rufus T., Edgar, Wilborn, James R., Vinnie D., Ermine C., Edwin C. and Ancil F. Dawson, Etta Brauer, Kitty, Delia F., Finis T. and Jasper Cecil Richardson, Edgar, Walter, Alice, Laura, Oscar, Claude and Edna Flournoy, Texanna, Irene W. and Wilburn E. Woolley, Laverna A., William A. and Annie B. Fishback, Lula P., Curtis, Morris O. and Roy Weddle, Florence, Clide and Alice A. Morgan, John E. Fishback, Edna, Roby and Charley Mabry and William D. Douthitt, as citizens by blood of the Cherokee Nation, and dismissing the applications for the enrollment of Cecil Dawson, Liddie and Margaret Graham as citizens by blood of the Cherokee Nation, they having died prior to September 1, 1902, was affirmed by the Secretary of the Interior on March 31, 1904, and that the Commission's decision rejecting the applications for the enrollment of James, May, Zelma, Roberta, and Rosa Lowe, Osie, Lizzie, Jessie, Ray, and Clyde Jackson as citizens

by blood of the Cherokee Nation, was reversed by the Secretary of the Interior on the same date.

Respectfully,

Commissioner in Charge.

(COPY)

D.C.53540-1906. Y.P.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D.7442,7444,
7446,7448,
7450,7452,
7454,7456,
7458,7462,
7464,7466,
7906-1903.

December 4, 1906.

L.R.S

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

In accordance with the decision of the Supreme Court of the United States in the case of Daniel Red Bird et al., citizens of the Cherokee Nation by blood, and Francis B. Fite et al., claiming to be entitled to citizenship in the Cherokee Nation by intermarriage, the applications for the enrollment of Katie Dawson, Andrew C. Atkins, Catherine Dawson, Sarah F. Dawson, August Bulawsky, Nannie Dawson, Sarah J. Dawson, Nellie Pierce, John S. Beglo, Florence Dawson, Martha A. Dawson, Charles T. Moore, Ida Blasingame, Mary A. Blasingame, Martin L. Patterson, Alice Dawson, Sarah J. Dawson (formerly Jones), John W. Graham, Elizabeth Graham, Mathew A. Painter, Charles T. Bradshaw, Bessie Graham, James H. Harmon, William C. Lenox, Millie T. Dawson, Henry T. Richardson, Melissa A. Dawson, Hiram F. Weddle, Alonzo M. Fishback, Lizzie Jackson, and George A. Mabry, as cit-

izens by intermarriage of the Cherokee Nation, mentioned in letter of the Commission to the Five Civilized Tribes of February 25, 1903, submitting the record in the consolidated case of Francis M. Dawson et al., are rejected. See eleven departmental letters of March 31, 1904, and letters of April 8 and 13, 1904.

The papers still remaining in the Department have been returned this day to the Indian Office.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

23 inc. to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 324 et al.

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

Muskogee, Indian Territory, December 19, 1906.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the applications for the enrollment of Katie Dawson, et al., as citizens by intermarriage of the Cherokee Nation, were denied by the Secretary of the Interior, December 4, 1906.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl. W-11
S.W.

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. S. DAVENPORT
J. C. STARR, SECRETARY

...OFFICE OF...
ATTORNEYS FOR THE CHEROKEE NATION
CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

A. S. L. # 2.

that I will know whether or not he is coming. Say to Kinney and have him write Smith that their ~~[illegible]~~ mileage and per diem will be paid by the Cherokee Nation. Say also to Kinney that we will like to have Smith here by Sunday noon of the 16th. Of course if he cant get here until the morning of the 17th let him come then.

I trust you will see to this as soon as you receive this letter as we only have a week to communicate to these parties in.

Yours very truly,

W. W. Hastings

Atty for the Cherokee Nation.

...OFFICE OF...

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE ENROLLMENT

W. W. HASTINGS, ATTORNEY
J. C. STARR, SECRETARY

MUSKOGEE, IND. TER. _____ 190__

James W. Lewis,
P.O. Nylon,
age 73 - Work in tin shop & gun repairing - Knew James Dawson since '85 or '86 ever since he came to the country - Built the first house for him - Heard him James Dawson talk several times about getting his citizenship & heard him say that it cost him $700.00 to get it in -

Dawson Case.

Statement of T. L. Glinkenbeard.

" I am 56 years old my post office address is Vinita I. T.. In 1880 or 1881 in the month ofSeptember I was an applicant for citizenship at Tahlequah before the citizenship Commission. Buck Dawson was also an applicant for citizenship at the same time. I was a stranger in Tahlequah and there were a great many people there and I had some trouble in getting a place to board and finally secured a place to board with an old Gentleman by the name of Sam Sharble in the north east part of the town. Buck Dawson boarded at the same place I did and of course we talked about our cases and the testimony we had and the situation. Dawson said that he was from Texas and said that money made the mare go in Texas and that he wasup at Tahlequah to investigate the lay of the land and that he found that it was the same way here among the Cherokees.. He said that he hd no witnesses there but that he was expecting an old man from the state of Arkansas by the name of Dr Baker who was 85 or 90 years old and said that Dr Baker did not know straight up and that he could give him four or five drinks of Arkansas whiskey and he would swear white was black if he wanted him to.

Dr Baker did not come while I was there at Tahlequah and the case was not tried during that term. . He said in talkinh about his citizenship that he could stand asmuch as One Thousand Dollars and could spare as much as fifteen hundred dollars or Sixteen Hundred dollars and would not be hurt very bad. He said that witnesses were not really necessary any way and money makes the mare go in Texas and she pops here.. BuckDawson went back with him to Fort Gibson and Muskogee and he went on to Texas. I left him here at Muskogee. I saw him about two years after that at Afton and he recognized me and I askedhim how he made it down here and he said he made it all right. This man Buck Dawson had a crippled hand or finger.

C. G. Brought —

P.O. Aflen — Kyd Co.

Been there 19 yrs. Did not know Dawson before — Bud Dawson settled nature 1½ miles of my place + still owns the place — Was an applicant for citizen's ship — "If you can get through you will have to pay up" "It cost him $700.00" & "one witness cost me $300.00" Did not say which he was — He said he made arrangements with the Board to take his folks in for $100.00 for head of family — June 1883 or thereabouts — His family was not there — He had just arrived + had put up a little cabin —

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J. S. DAVENPORT
J. C. STARR, SECRETARY

OFFICE OF

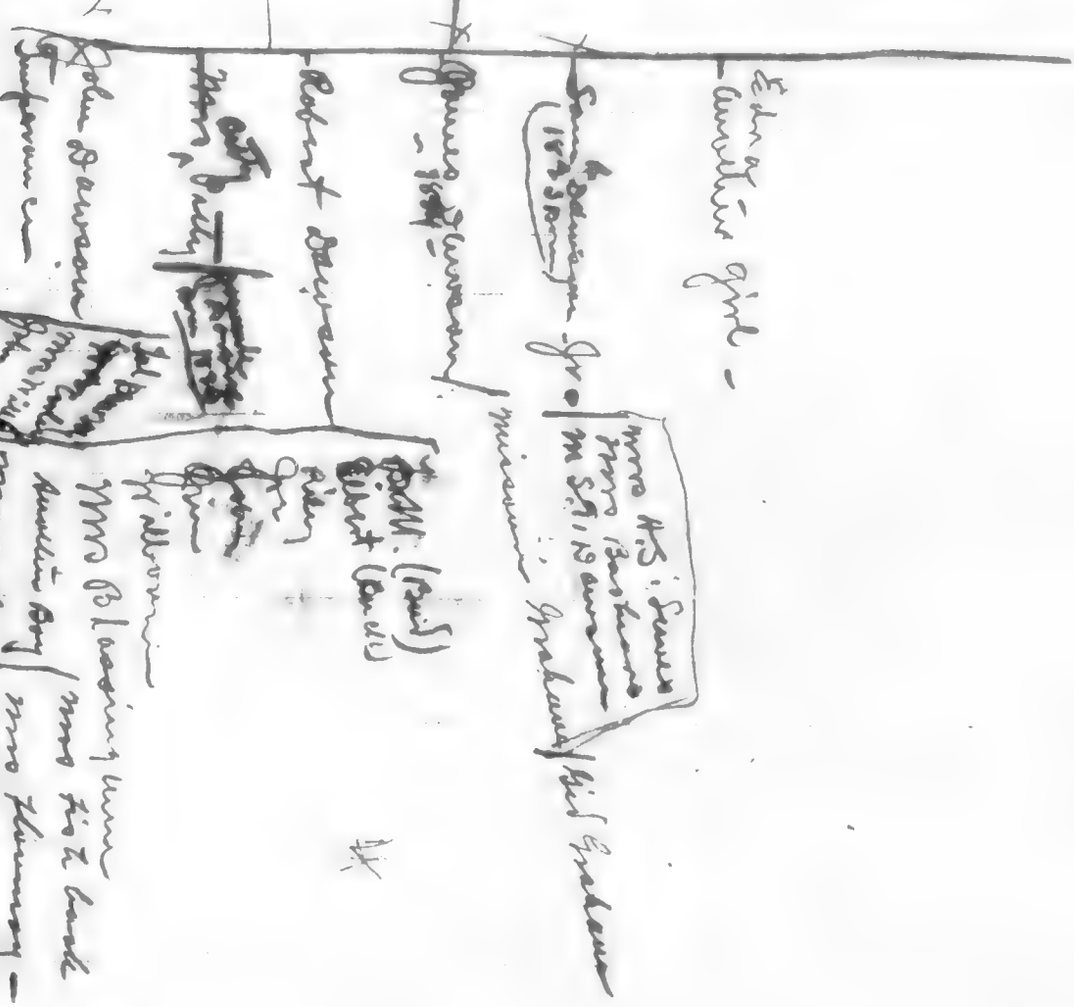
ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

VINITA, IND. TER. 190

Sam Dawson Sr
Annie Poindexter - (Supposed Cherokee)



Sam Irwin - 70 - yrs - Flomer, Tex -
Mrs Eliza Irwin -

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CHEROKEE FREEDMEN ENROLLMENT

No. F. D. 190

VINITA, IND. TER.

Sam Dawson Sr
Annie Pruitt (Supposed Cherokee)

Edna
Auxiliary girl

Sam Dawson Jr
(1882 Born)
Mrs H. S. Sawyer
Mrs Bashaw
Mr S. T. Dawson
Girl Graham

Missouri Graham

James Dawson
(1884)

Robert Dawson
Will (Bud)
Elbert (Bud)
Riley
Jim
John
Tim
Willowmine
Mrs B Lassing
Auxiliary Boy
Mrs Fish back
Mrs Flannery
Mrs Chowley
Mrs May boy

Mrs Betty

John Dawson
Temperance

Jel
Mrs Wills
John
Sam Jr.
Mrs Rice

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CHEROKEE ENROLLMENT

W. W. HASTINGS, ATTORNEY
J. C. STARR, SECRETARY

MUSKOGEE, IND. TER. _____ 190__

Tom Beaver -
Age - 49 - P.O.
Milvin - F.B. Cherokee by blood -
Acknowl James Dawson -
Named Special Court - About
Feb - quite a lot at that
time of reckoning -
Aaron Butler Witness - James
Smith Nation's Atty -
Aaron, Jim Smith
James Dawson and perhaps others came
down ~~to Gore~~ to the Myers
Church I saw him in
Sept '84 and the Special
Court was in session -
& James Dawson wanted
HE vs ~~and said~~ till next
morning - He had to have the

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CHEROKEE ENROLLMENT

W. W. HASTINGS, ATTORNEY
J. C. STARR, SECRETARY

MUSKOGEE, IND. TER. _____ 190__

money that night & he could get his case submitted by the Nation without further evidence - He was admitted by that Court - I let him have $10.00 - Further reports for the fellows being all right - He Mason & Jim Smith went off to-gether -

Robert Dawson, F. M. Dawson, Albert Dawson, et al, filed their petition for citizenship September 24, 1881; continued by plaintiffs until October 3, 1881. The case was continued to various times until the 11th day of January, 1883, when they were rejected by the Tochee Court. D. W. C. Duncan, Clerk.

See page 114 Citizenship Record 1880-1884.

James Dawson, et al, filed their petition for citizenship September 14, 1883, and the case was submitted to the Commission and continued from time to time, and was submitted by C. H. Taylor September 2, 1884; and on the 9th day of September, 1884, they were rejected by the Spears Court. John L. Adair, Clerk pro tem.

See page 191 same book.

S. R. Dawson, a brother of the above named applicants, filed his application to the Adair court August 11, 1887, and was rejected by the Court April 29, 1889, in a well written opinion by Will P. Ross, R. Bunch and John E. Gunter, D. L. Williams, Clerk.

See page 30 Book B.

The same Court on April 26, 1889, rejected James K. P. Dawson, and referred to the S. R. Dawson case.

See page 116, Book C.

The same court rejected Rebecca Dawson in August 28, 1889.

See Book C, page 144.

The same court rejected Mary Dawson. See Book C, page 145.

On April 26, 1889, the same court rejected Andrew J. Dawson, and referred to the S. R. Dawson case; and Andrew J. Dawson applied to the Dawes Commission and was rejected, his number being 4694, found in the Dawes Commission record B, 294.

Joanna Barber applied to the Cherokee Commission, and she was rejected.

See Book B, page 28.

Reference was made to the S. R. Dawson case. And this same Joanna Barber applied to the Dawes Commission in 1896 and was rejected.

See Dawes Commission record, book A, page 297, being number 1864.

And she appealed to the Court, and the Court rejected her; being number 90.

See testimony of W. C. Rogers and Sarah Carter filed in that case.

#

Introduce copy of Frank J. Hauser Court Ho. 238. Dr Baker's statement in case

Introduce the original record in the Robt Dawson case before Tribe Court in jacket including the Dr Baker testimony -

#

Introduce F. M. Dawson to prove what testimony they had before Tribe Court & question him whether or not Dr Baker was a witness & then ask him if all the others were not admitted on the

3 strength of their admission & the relation which the first persons admitted.

#

Introduce T. L. Chinburg board - Vinita I.T.

#

Introduce L.B. Kinney - Owasso I.T.

#

Introduce B.Y. Youngblood - Fairland

#

Introduce B.H. Gay Cor. Coffeyville Kan

#

Introduce A.S. Lewis - Dawson I.T.

#

Introduce Dave (not here) Meredith - Vinita

#

Introduce Mrs O.P. Brewer -

#

Introduce on testimony of B.H. Benge -

#

Introduce Sam Beavert -

#

J.M. Lewis - Afton -

~~Introduce Perry Barnes - Texas P.O.~~

#

~~Introduce John Barnes - Texas P.O.~~

#

~~Introduce Mrs A.V. Davis -~~

#

Introduce Texas Witnesses - Mrs Barnes, Mrs S.F. Adams

#

Wired W.M. Findley
" for Dave Meredith -

Some witnesses in
the Dawson cases =
C. G. Brought
Fairland I. T.
will swear that
Bud Dawson said he
paid $700.00 to be admitted.
Made affidavit to this
effect 19th day of Feb
1894 - Said that he
paid 1 witness $300.00

#

M. F. Hood of
Fairland I. T.
Knows of family
history.

#

T. J. McGhee claims he
heard the contract
for $800.00 between
Hooley & Bud -

#

C. H. Taylor - claims
he knows the
same

Perry Russell
Tucker G.T.
Knows of this
history.

Mrs
Frank Franklin - Winter
Dave Meredith -

Lewis - Blacksmith + Carpenter - Affleck -

#

Fate Pyeatt - Affleck - corporation -

#

1- Wire Judge Bill to excuse
Dave Meredith from jury Ed
send him down here -

#

Wire Mrs Frank Franklin to
come on Fly on or night train - Answer -

#

Copy are on file in Executive Office

Rejected Claimants

Case Mary Dawson for Cherokee citizenship — Dated 4th day October 1887. by her Attys. Boudinot and Rasmus

Mary Dawson age 54 yrs. and Waller Dawson age 18 yrs.

Decided against August 28/89

Wm. P. Ross Chairman

J. E. Gunter Comr.

Case Rebecca Dawson; aged 48 yrs.

Rejected August 28/1889

Case filed Jan. 27/1887. by C. H. Taylor attorney for Andrew J. Dawson aged 44. E. E. Dawson age 16. Olive M. Dawson 14 yrs. Wm. H. Dawson 11 yrs. Jassy R. Dawson 9 yrs. Glenn D. Dawson 8 yrs. Submitted Oct. 4/87

The above claimants came from Nevada Mo.

Case presented by C. H. Taylor Atty.

Andrew J. Dawson

William A. " "

Richard A. " "

All of these are relatives of the original Robt. Dawson whose citizenship was granted by the Cherokee Court in 1883

Rejected List
on file in Ex+
Office, C.R.

C.

James Dawson
Ella Dawson
W. H. Dawson
Melvin Dawson
Mason Dawson

Filed 9/14-83

Case submitted 9/14-83

Case submitted by
Sol- 9/14-83

Resubmitted 9/2-84
Submitted 9/4-84
Resubmitted 9/9-84

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. S. DAVENPORT
J. C. STARR, Secretary

OFFICE OF

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

VINITA, IND. TER. 190

$100.00
Mrs. Duncan

March 12th 1902. 189

Received from W. W. Hastings

Three Dollars

for serving subpoenas

$3.00

J. R. Lewis.

ACME STATIONERY & PAPER CO. N. Y.

After 10 days, return to

MUSKOGEE, IND. T.

W. W. Hastings,

Muskogee I. T.

Registered Letter / Parcel No. 3575 Post Office, Muskogee, Ind. Ter.

Received MAR 10 1902 190 from

J C Starr

addressed Frances M Dawson a Let. / Par.

Okemah I T

Houston T. Estes, P. M.

P. M., per

This space is reserved on counter part for particulars connected with dispatch of registered piece.

1793

$1.00
.25
.10
$1.35

After 10 days, return to

MUSKOGEE, IND. T.

19

7 PM

After 10 days, return to

MUSKOGEE, IND. T.

W. W. Hastings,
Muskogee, I. T.

CHEROKEE. D324

Frances M. Dawson et al

Property of M. D. Green

CHEROKEE.

324

Katie ~~Lonner~~ M. Damron et al

OCT 12 1907 Order of Dec. No. 2
transferred to Muskogee 1907

Nos 1 and 3 to 8 incl. transferred to Cherokee No. 10732, April 12, 1904

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

Dawes Roll, Cherokee 520-521-544-577-235-350-352-357-365-402-407-508-560-530-413-409-431-461-479-479-364-465-519-521-232-833-834-435-604-605-609-610-626-627-609-623-35-836-1124-1125-1126-1127-1128-345-426-508-830-849-1139-1140-1145-343-521-522-737-845-919-R12-R13.

Cher D 325

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 18th, 1900.

IN THE MATTER OF THE APPLICATION OF Samuel F. Barger, wife and children, for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Samuel F. Barger.
Q What is your age? A Thirty four.
Q What is your Postoffice? A Tahlland.
Q What district do you live in? A Delaware.
Q For whom do you apply for enrollment? A Myself and family.
Q Wife? A Yes sir.
Q How many children? A Four/
Q Do you apply as a Cherokee by blood? A Yes sir.
Q Do you apply for your wife as a Cherokee by blood? A No sir.
Q How long have you lived in the Cherokee Nation? A I have lived here since 1886, with the exception of five years.
Q What five years was that? A That was from about 1893 to 1898.
Q You came back in the Fall of 1898, did you? A Yes sir: No; January, 1898.
Q Two years ago this coming Winter? A Yes sir.
Q Then you came back in the Fall of 1899; in the Winter of 1899? A Yes sir.
Q Where were you during that five years? A In Missouri.
Q What were you doing there? A Staying with my grand mother.
Q Did you have your family with you? A Yes sir.
Q What were you doing there; farming? A Yes sir; farming.
Q Were you making your home there? A I was making my home there at that time; Yes sir.
Q Did you vote, and live there like a citizen? A Yes sir.
Q How did you come to be a Cherokee citizen in 1886?
A We were admitted.
Q Have you your certificate of admission A Yes sir.
The applicant presents a copy of a Bill, said to have passed the Cherokee Council, the same having passed the House, and been concurred in by the Senate, November 17th, 1886, admitting certain people to citizenship, and among them is the name of Samuel Barger.
Q That is your name, is it? A Yes sir.
A His name is recognized in this paper, but the paper does not state that the Ac ever received the signature of the Chief of the Nation, or was passed over his veto, or in any way became a law. It is returned to the applicant, as inconclusive evidence, and he is desired to secure more positive evidence on the subject.

Q Were you on the roll of 1896, are you: Were you in the Nation?
A No sir ., but I came back ought to be; I came back and enrolled.
Q Did you have property back here? A Yes sir.
Q Give me your wifes name please? A Ollie Barger.
Q How old is she ? A She is thirty two.
Q What was her name when you married her? A Ro s.
Q What was her maiden name, was it? A Yes sir.
Q When did you marry her? A In 1890.
Q Have you a certificate of marriage? A Yes sir.

The applicant presents a duly authenticated certificate of marriage, as stated by him, his to have taken place October 12th, 1890., Elder John A. Davis, Blue City, Kansas, officiating. This is filed with his application.
Q Your wife has lived with you ever since your marriage?
A Yes sir .
Q And is living with you now? A Yes sir.
Q Give me the names of your four children? please? A Nata May.
Q How old is that child? A Five years old.
Q The next child? A Bessie Irene.

Q How old is she? A Four years old.
Q Is she on the roll of 1896? A She ought to be.
Q Next child? A Gilbert Elton.
Q How old is that child? A Three.
Q Too young to be on the roll of 1896? A Yes sir.
Q The next child? A Roy Franklin
Q How old is that child? A One year old.
Q Are these children all living now? A Yes sir.

(1896 Roll, Page 444, #432, Samuel Berger, Delaware District)
(1896 Roll, Page 288, [illegible], Polly Ann Berger, Delaware Dist't)
(1896 Roll, Page 444, #434, Ruth May Berger, Delaware District)
(1896 Roll, Page 444, #434, Bessie Berger, Delaware District)

Q Is there an "A" in your wife's name? A Yes sir; that is her middle name.

The applicant applies for the enrollment of himself, wife and four children: He presents incomplete evidence of his having been admitted by Act of the Council, in 1886. As regards this point, he must supply the Commission with evidence that the Act cited in the testimony because a Law. In other words, he must supply official evidence of that character. According to his testimony, he lived in the Cherokee Nation from the time of his admission in 1886 until 1893, and then moved to Missouri and stayed there until the Winter of 1899, and while in Missouri, exercised the rights of a citizen of Missouri, by voting; returning to the Cherokee Nation in the Winter of 1899: He is identified on the roll of 1896. He states that he retained property all the time in the Cherokee Nation, but in view of the facts stated, under a provision of the Curtis Bill, Sect'on Twenty One, in regard to residence, there seems to be very little ground upon which to enroll the applicant At present, however, he will be listed upon a Doubtful Card: He is shown to have been married to his wife in 1890, and she is identified identified on the roll of 1896: They have lived together ever since their marriage, and she will be listed upon a Doubtful Card.

The applicant is directed to supply the Commission with duly authenticated certificates of the birth of his two younger children, Gilbert Elton and Roy Franklin Berger. The two older children are identified on the roll of 1896, and all of these children will be listed upon a Doubtful Card. Attention is further called to the Act of the National Council, approved December 4th, 1894, and found on Page 128 of the Report of the Dawes Commission of 1896.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Graves

Subscribed and sworn to before me
this 18th day of September, 1900.

C Meriwether

COMMISSIONER.

A 3 2 5

CC

SEP 18 1900

ACTING

Card D-525.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T. October 5th, 1900.

Additional testimony in the application of Samuel F. Barger for enrollment as a Cherokee citizen, he being sworn and examined by Commissioner Breckinridge, testified as follows:

Q You appear to give additional testimony in the application of Samuel F. Barger? A Yes sir.

Q The applicant now files an official copy of an act of the National Council of the Cherokee Nation approved Nov. 21, 1886, showing that certain persons were admitted to citizenship, and among them appears the name of Samuel Berger? You claim that is intended for you? A Yes sir.
Q And Caroline Berger is the name of your mother? A Yes sir.

This is filed herewith and will be placed with the papers of his ~~[illegible]~~ former application.

Edward G. Rothenberger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full all proceedings in the above case, and that the foregoing is a true and complete translation of his stenographic notes in said case.

Edward G. Rothenberger

Subscribed and sworn to before me this 5th day of October 1900.

C. R. Breckinridge
Commissioner.

19325

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 8 1900

ACTING CHAIRMAN.

D. 325.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1903.

In the matter of the application of Samuel F. Barger for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

Applicant present in person.
Cherokee Nation represented by W. W. Hastings.

-:TESTIMONY IN BEHALF OF APPLICANT:-

SAMUEL F. BARGER, the applicant, being duly sworn, testified as follows:

COMMISSION: What is your name? A Samuel F. Barger.
Q How old are you? A 34 years old.
Q Is there any statement you desire to make relative to your enrollment as a citizen of the Cherokee Nation? A Yes, sir.
Q State briefly, please, what it is. A The reason I was out of the Nation here was my grandmother she was getting old and I had to go and live with her in Missouri; she wouldn't come here and I went there to take care of her.
Q When did you leave the Cherokee Nation? A November of 1893.
Q When did you come back? A In January of 1899.
Q In January of 1899? A Yes, sir.
Q You are sure about that? A Last of January I think, yes, sir.
Q Sure about the year? A Yes, sir.
Q When you appeared before the Commission in Vinita you stated in answer to the question, when did you come back, you answered that you came in January, 1898, now which is correct, January, 1898, or January, 1899? A January, 1899.
Q And the statement that you made there as to having returned in 1898 was incorrect? A Yes, sir. If I made that statement it was wrong.
MR.HASTINGS: Had you a wife and family with you up there? A Yes, sir.
COMMISSION: Is there any further statement that you desire to make relative to your enrollment? A No, sir, nothing only my home is here, my mother lived here, my home is here, and had property here, and that is all.
Q Did you ever vote while you were in Missouri? A Yes, sir.
Q What elections? A Voted for President there.
Q What year was that, in 1896? A Yes, sir.
Q Did you vote at any of the Congressional elections? A I believe I did.
Q Did you vote in November, 1898, just before you came to the Cherokee Nation the last time? A No, sir.
Q Did you vote at all the state elections? A No, sir, nothing only for President.
Q Did you vote at the county elections? A Voted one county election, sometimes I voted——
Q Did you take your family to Missouri, were you married at that time? A Yes, sir.
Q Did you keep house there? A Yes, sir.
Q What business were you engaged in? A Farming.
Q Did you own any property there? A No, sir.
Q Pay any taxes? A No, sir.

Q You submit this case to the Commission for final consideration?
A Yes, sir.

COMMISSION: The applicant and the representative of the Cherokee Nation present submit this case to the Commission for final consideration. The same is ordered closed and reported to the Commission for final decision based upon the evidence now filed.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings and testimony in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 28th day of February, 1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 1902
Acting Chairman.

Cherokee D 225

H.V.L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Samuel F. Barger for the enrollment of himself and his four minor children, Esta M., Bessie I., Gilbert E., and Roy F. Barger as citizens by blood of the Cherokee Nation and for the enrollment of his wife Ollie A. Barger as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 18, 1900, the applicant, Samuel F. Barger, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself and his four minor children, Esta M., Bessie I., Gilbert E., and Roy F. Barger, as citizens by blood of the Cherokee Nation and for the enrollment of his wife, Ollie A. Barger, as a citizen by intermarriage of the Cherokee Nation. Thereafter, on October 5, 1900, at Vinita, Indian Territory, further evidence in the matter of this application was heard, and on February 24, 1902, at Muskogee, Indian Territory, the applicant, Samuel F. Barger, again appeared before the Commission and gave additional testimony and the case was submitted to the Commission for final consideration.

It appears from the evidence in this case that the applicant, Samuel F. Barger, was re-admitted, with others, to all the rights and privileges of Cherokee citizenship, by blood, by an act of the National Council of the Cherokee Nation approved November 21, 1886. On October 12, 1890, the applicant, Samuel F. Barger, married Mrs. Ollie Ross.

The applicant, Samuel F. Barger, his wife, as "Polly Ann Barger," their daughters, Esta M., and Bessie I. Barger, are all

identified on the Cherokee census roll of 1896. Two sons of the applicant, Samuel F. Barger, and his wife, Ollie A. Barger, Gilbert M. and Roy F. Barger, were born on August 25, 1897 and February 22, 1899 respectively, and proper proof of their births has been furnished this Commission. Subsequent to the date of this application, on September 21, 1900, another child, a daughter, Lula A. Barger, by name, was born, and proper proof of her birth has been furnished this Commission.

The evidence further shows that the applicant, Samuel F. Barger, resided in the Cherokee Nation from the time of his re-admission in 1886 until 1893 when he removed with his family to Missouri, where he exercised rights of citizenship and remained until January 1899. Neither the applicant, Samuel F. Barger, nor any member of his family had removed to and in good faith settled in the Cherokee Nation prior to the date of the enactment of the Act of Congress of June 28, 1898.

Paragraph 9 of Section 21 of that Act provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is therefore the opinion of this Commission that Samuel F. Barger, Esta M. Barger, Bessie I. Barger, Gilbert M. Barger, Roy F. Barger, and Lula A. Barger are not lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that Ollie A. Barger is not lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be refused and it is ecordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this MAY 27 1902

Before the Department of the Interior:

Washington.

September 18th 1903.

In the matter of the application for the enrollment of Samuel F. Barger et al as citizens of the Cherokee Nation,

Cherokee D # 325.

Brief of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully protests against the reopening of the case of Samuel F. Barger et al, or reviewing the same for the reason that the decision of the Commission to the Five Civilized Tribes dated May 27th 1902 should be affirmed.

The testimony in this case shows that Samuel F. Barger is a married man and has four minor children; that he left the Cherokee Nation in 1893 and for a period of six years made his home in the state of Missouri, during no part of which time is it specifically shown that he had any property of any kind behind him in the Cherokee Nation, upon the other hand he testifies on September 18th, 1900 that he moved to Missouri; took his family there and specifically states that he made it his home while there; he further admits that he voted for president and voted for Congressmen and that he voted in all the elections and in fact he exercised all the rights of citizenship in the State of Missouri that are exercised by any other citizen of that state. The Cherokee Nation therefore contends that there is no parallel whatever between this case and the Yeargain case; that this man is not entitled to be enrolled under Article I Section 2 of the Cherokee Constitution which provides that whenever any citizen of this nation shall remove with his effects out of the limits of the Cherokee Nation and becomes a citizen of another government all his rights and privileges as a citizen of the Cherokee Nation shall cease. This has been conclusively shown in this case. No specific showing of any effects is shown in the testimony, that was left behind him to retain his citizenship in the Cherokee Nation; he did go to Missouri for the purpose of

making it his home; he engaged in farming in the State of Missouri for five or six years and he exercised all the rights of citizenship in that that as are exercised by any other citizen of that state.

If his mother was old and infirm she could have been brought to the Cherokee Nation where the applicant could have cared for her and still have retainedhis citizenship. Under the act of Congress which provides:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship"

the applicant should not be enrolled, because at the date of the passage of that act he was not a permanent resident in the Cherokee Nation.

Again he should not be enrolled under the act of the Cherokee National Council of December 4th 1894 which provides:

"That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act, or from the date of readmission of persons hereafter readmitted, or no rights whatever shall accrue to such persons by reason of such readmission; Provided, that nothing in this act shall bar minors and orphans."

Instead of complying with the Cherokee law and returning to the Cherokee Nation on or before June 4th 1895 he didnot return to the Cherokee Nation for more than fouryears thereafter.

For the reasons hereinabove stated we see no error in the judgment of the Commission and we believe that the same in all things should be affirmed and the motion to reopen this case should be denied.

Respectfully,

W W Hastings JCS

Attorney for the Cherokee Nation.

AAD

Cherokee R-656

Department of the Interior,
Commission to the Five Civilized Tribes,
Cherokee Land Office,
Tahlequah, I.T., May 14, 1904.

In the matter of the application of SAMUEL F. BARGER for the enrollment of himself and his children, ESTA M., BESSIE I., GILBERT E., ROY F. and LULA A. BARGER, as citizens by blood, and his wife, OLLIE BARGER, as a citizen by intermarriage of the Cherokee Nation.

SUPPLEMENTAL TESTIMONY.

Appearances:
William Henry White on behalf of applicants;
W. W. Hastings on behalf of Cherokee Nation.

SAMUEL F. BARGER, being duly sworn and examined, testified as follows:

By William Henry White:

Q What is your full name? A Samuel F. Barger.
Q And where di you reside? A Four miles and a half northwest of Fairland, Indian Territory.
Q You are the principal applicant in this case? A Yes sir.
Q And you have heretofore made application for enrollment?
A Yes sir.
Q When did you remove to Missouri? A In '93.
Q At the time you went to Missouri, what, if any, property did you leave in the Cherokee Nation? A I left 2 farms here and some little personal property.
Q Now as to these farms, you say there were 2? A Yes sir.
Q The first farm contained how many acres in cultivation? A There was a bout 60 acres in one of them in cultivation, and in the whole tract of land there was about 300 acres.
Q How much was under fence? A About 300 acres.
Q Where is this farm? A 3 miles northeast of Bluejacket.
Q Do you still own improvements on that farm? A No sir, I don't.
Q When did you sell them? A I sold them about 1900 or 1901; 1901 I believe.
Q Did you own them all the time you were in Missouri? A Yes sir.
Q And until after you returned to the nation? A Yes sir.
Q What kind of a fence did you have around the farm? A It was a wire fence.
Q What, if any, farming implements did you have? A I had a wheat binder, a cultivator, a breaking plow and a sod plow I believe.
Q Did you leave these in the nation when you left? A Yes sir.
Q Did they remain here all the time you were away? A All but the binder; I sold the binder while I was away.
Q Did you leave any stock? A I left one cow.
Q Was the cow here all the time when you were away? A Yes sir.
Q And you still owned her when you returned? A Yes sir.
Q When did you return? A January, '99.
Q You have been living here ever since? A Yes sir.
Q That is, in the Cherokee Nation? A Yes sir, in the Cherokee Nation.

Q Now this other farm; how many acres in it all told? A 150 acres.
Q Where is it? A 5 miles southwest of Miami.
Q In the Cherokee Nation? A Yes sir.
Q What kind of a fence did you have around it? A Wire fence.
Q Do you still own the improvements on it? A No sir.
Q How long did you own them after you left for Missouri? A I owned it all the time.
Q Then all the time during your stay in Missouri you owned the improvements on this farm? A Yes sir.
Q Did you leave any stock on this farm? A No sir, never left any stock on that farm.
Q While you were in Missouri, did you put any stock on either of these farms? A Yes sir.
Q What? A I put a few cattle and one horse.
Q How many cattle? A Well, I put 15 head during the time I was gone; I had 15 what I had raised and this one cow.
Q When did you put the first cattle on your farm, with relation to the time you went to Missouri? A In '96 was when I put the first cattle there.
Q And you left for Missouri in '93? A Yes sir, that was when I moved there.
Q Why did you go to Missouri? A I went there to take care of my grandmother; she lived there and would not come to the Territory.
Q Did you take care of her? A Yes sir.
Q Did she die while you were there? A No sir, she came back to the Territory with me and died here in the Territory.
Q What was your intention with regard to returning to the Territory when you left? A I aimed to come back just as soon as I could.
Q And did you come back as soon as you could? A Yes sir.

By W. W. Hastings:

Q You went to Missouri in '93? A Yes sir, in the fall of '93.
Q You had previously married in 1890? A Yes sir.
Q You returned to the Cherokee Nation in 1899? A Yes sir, in January of 1899.
Q How many children were born to you and your wife in the State of Missouri?
White: I object.
Commission: Objection noted.
White: Answer the question.
A There was three.
Q Name them? A Esta May, Bessie Irene and Gilbert Elvin.
Q You were in Missouri then in '94? A Yes sir.
Q Who drew your strip money for you? A I drew it myself.
Q You were there when that roll was made? A Yes sir, I was in Missouri. When was that roll taken? What time in '94?
Q I think the preliminary was taken in '93 and corrected up in '94. Well, you were there when the strip money was paid out?
A Yes sir.
Q You was living there on May 3, '94? A Yes sir.
Q What were you doing in Missouri? A I was farming.
Q Upon whose farm were you living? A We was living on my grandmother's farm.
Q Were you living in the house with your grandmother? A Yes sir.
Q Did you live in the house with her all the time you lived there?
A Yes sir.
Q What size farm did she have? A She had 107 acres I think it was.
Q What was your postoffice address in Missouri? A Oakgrove.
Q You voted in Missouri?
White: Objected to as immaterial.
Commission: That's material, sure.

Q You voted while in Missouri?

White: I wish to state, as a ground for objection, that the Constitution requires that, to be a legal voter, one must first become a citizen of the United States, and, under Act of Congress, this applicant could not become a citizen of the United States in such a way as to deprive him of his tribal rights.

Hastings: In reply to that, I desire to say the records show this applicant was born a citizen of the United States, and he claims citizenship in the Cherokee Nation by virtue of re-admission in '96.

Q How many times did you vote in the State of Missouri?
A I voted in '96 for the President.
Q Did you vote in '94? A No sir.
Q Did you live in a town? A No sir, lived in the country.
Q What Congressman represented that Congressional District at the time---

White: Objected to as immaterial.

Commission: Objection noted.

A Well, sir, I don't know.
Q Did you vote in the Congressional election of '98? A No sir.
Q You voted in the school elections up there? A I voted in one.
Q What year? A I don't remember what year it was.
Q You farmed, did you? A Yes sir.
Q Children attend schools up there? A No sir.
Q They were to small I guess? A Yes sir.
Q Did you own your team up there? A Yes sir, took one from here up there.
Q Own any cattle up there? A No sir.
Q Own any farming implements? A Yes sir.
Q Buy them in Missouri? A Yes sir.
Q What kind of farming implements did you buy? A I bought a cultivator, a breaking plow and a harrow.
Q When did you buy these? A In '94.
Q Soon after you went up there? A Yes sir.
Q From whom did you purchase, or how did you acquire this place near Bluejacket? A I bought the claim on the place.
Q Who from? A John Hood.
Q He was a non-citizen? A Yes sir; his wife was a citizen.
Q She was a citizen? A Yes sir.
Q You swear now that she was a citizen?

White: Objected to as immaterial.

Commission: Objection noted.

A Well, I wouldn't say positive.
Q Well, how much did you give him for it? A I give him $100.
Q Then did you lease the place? A No sir, not that one.
Q Never did lease it? A No sir.
Q You state you had a wire fence around it; how many wire?
A Three wire fence around a part of it and two wire fence around the rest of it.
Q How far were the posts apart? A About a rod apart.
Q Got that cow yet that you left up there? A No sir, not got it yet; had it until this spring.
Q When did you purchase her? A 3 years before I went away.

Q Then you purchased her in '90? A Yes sir.
Q You just left her up there, did you? A Yes sir.
Q You afterwards claimed to put some other improvements on this place? A Yes.
Q What year did you do that? A '96.
Q What cattle were they? A They was calves.
Q Who did you buy them from? A Bought them from a man here in the country.
Q Did you come back down here and buy them? A Yes sir.
Q How many did you buy? A I bought about 10 head.
Q That year? A Yes sir.
Q Who was living on that place? A Man by the name of Samples.
Q Is he here as a witness? A No sir.
Q Is he in the country? A Yes sir. I got a witness here knows all about it, a man that was living on the place at the time.
Q Where did you get this other place down near Miami? A Leased it.
Q Took it up from public domain? A Leased it to a man.
Q He made it for you? A Yes sir.
Q When did you get possession of it first after the improvements was put on it? When did the lease expire? A I got possession after I came back.
Q Then you didn't have possession while you was in Missouri?
A No sir.
Q There was no lease at all on the first place? A No sir.
Q Where were you married to your wife? A In Cherokee County, Kansas.
Q How far across the line in Missouri were you from where you were previously married to your wife over in Kansas? A was about 150 mile north and east.
Q Did your grandmother finally sell out her place up there?
A No sir.
Q Owns it yet? A No sir.
Q But did own it at the time of her death? A Yes sir.
Q They never disputed your right to vote in '96 for President?

White: Objected to as immaterial.

Commission: Objection noted.

A No sir, they never objected.
Q They never objected the next time when you went to vote in school election? A No sir.
Q How far is your voting precinct from where you lived? A About 3 miles.
Q You knew the election officers, did you, personally? A Yes sir.
Q You paid taxes on your property in Missouri? A No sir.
Q You didn't pay them? A No sir.
Q How could you live in the State of Missouri and own personal property in your own name and not pay taxes?

White: Objected to as immaterial.

Commission: Objection noted.

A I don't know. I worked the road.
Q You worked the road, did you? A Yes sir.
Q But you paid no taxes? A No taxes.
Q You ever have any lawsuits up there? A No sir.
Q They ever summon you on the jury? A No sir.
Q Never were summoned? A No sir.

Q Never was a witness?

White: Objected to as immaterial.

Q You ever in a courthouse up there?

White: Objected to as immaterial.

Q But you did vote up there twice? A Yes sir.

By the Commission:

Q How did you come to vote? A Well, they come and wanted me to vote and I voted.
Q Did you think you had a right to vote up there? A Well, I didn't know. They said I had a right to vote.
Q Who said? A The people around there, the neighbors.
Q Do you know any reason? A No sir.
Q Did you have people tell you you had a right to vote?

White: Objected to as hearsay.

A Yes sir, they said I had a right to vote cause I was a living there.
Q Did you think you had a right to vote because you were living there? A Yes sir, I guess so.
Q Did you regard yourself as a citizen there? A No sir.
Q You say you just voted once at Presidential election, in '96?
A Yes sir.
Q Have you voted in the Cherokee Nation since you came back?
A No sir, I don't believe I have.
Q Have you ever voted in the Cherokee Nation? A Yes sir.
Q That was before you went away? A Yes sir.
Q Did you ever make any effort to dispose of your places here while you were up there?

White: Objected to as immaterial, the fact being shown so far that he didn't.

A No sir.
Q Did you have any intention of doing it? A No sir.
Q Your purpose was to keep them? A Yes sir.
Q You say your sole purpose in going to Missouri was to take care of your grandmother? A Yes sir.
Q You finally persuaded her to come back here? A Yes sir.
Q Did you come to live on one of your places here? A Yes sir.
Q Living there now? A Yes sir.
Q You say you sold one of your farms? A Yes sir.
Q Since you came back? A Yes sir.

By. William Henry White:

Q Which one of the farms are you ~~xxxxx~~ living on now? A It's the one nearest to Miami.
Q You acquired that farm by taking up part of the public domain, and giving some man a lease on it for a number of years, who made some improvements on it? A Yes sir.
Q Was that man actually in possession as your tenant? A Yes sir.

Q Until you got possession of it yourself? A Yes sir.

By. W. W. Hastings:

Did your grandmother have any other members of your family living with her, when you were up there? A No sir.
Q Was she living alone? A Yes sir.
Q Had she any other relatives in that community, any other grandchildren? A No sir, we was the only grandchildren.
Q She had others in the Territory? A Yes sir.
Q Had she any children living at that time? A No sir.

By the Commission:

Q Did you rent your farms while you were gone? A Yes sir, one of them.
Q What kind of rent? A Grain rent.
Q That rent was paid to you? A Yes sir.
Q Every year? A Yes sir.

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J. B. OVERSTREET, being duly sworn and examined, testified as follows:

By. William Henry White:

Q What is your full name? A J. B. Overstreet.
Q Where do you live? A 3 miles northeast of Bluejacket.
Q Do you know Mr. Barger who is an applicant for citizenship?
A Yes sir.
Q How long have you known him? A Why, about 12 or 13 years I think.
Q Did you know him when he moved to Missouri? A Yes sir; that is, you mean the last time? He had never lived in Missouri before.
Q Were you living near him at that time? A Yes sir.
Q How far from him? A Just about half a mile.
Q Did you ever live on Mr. Barger's farm north of Bluejacket?
A Yes sir.
Q When you left that farm, to whom did you give possession?
A Mr. Barger.
Q And since that you have lived on an adjoining farm a half a mile away? A Yes sir, the farms run right side and side, but my house is half a mile from his house.
Q When Mr. Barger left to go to Missouri in the fall of '93, what property did he leave in the nation that you know of?
A WHy, he left a cow with me, and he left a binder - twine binder - left a sod plow and an old ground plow and a cultivator and a kitchen table.
Q He left these with you? A Yes sir.
Q After he had gone, did you do any work for Mr. Barger in the way of improving his farm? A Yes sir, the next summer I put the wire around his farm; that is, he had the posts drove before he left.
Q How big a farm? A About 300 acres.
Q How much in cultivation? A About 70 or 75 acres.

Q Did Barger own these farming implements? A Yes sir.
Q All the time he was in Missouri? A Yes sir; he sold the binder, but he owned the rest.
Q Did he own the cow all the time he was in Missouri?
A Yes sir, except about 3 years. He had about 7 or 8 head of cattle and we traded this cow for some more.
Q Mr. Barger has stated that he owned that particular cow until last year; do you think he is mistaken? A This cow he owned until last year is the one I traded this cow for; I made the trade while he was gone, with his consent.
Q Did he continue to own improvements on this farm while he was in Missouri? A Yes sir.
Q Does he still own them? A No sir, he sold this farm since he came back.

By W. W. Hastings:

Q Did he own any farm at all when he left in '93? A Yes sir, he owned 2 farms.
Q I think you stated you put the wire around it next year? A I did it; he had it broke.
Q Well, he had none inclosed when he left here? A Why, I couldn't say as to whether he had that other farm inclosed or not.
Q There about Miami? A Yes sir.
Q I am trying to get you to testify with reference to Bluejacket?
A I put the wire around this farm the next year.
Q Well, it was un-inclosed when he left? A Yes sir.
Q How much was broke when he left? A About 70 or 75 acres.
Q Been any broke since then? A Oh yes.
Q There was about 70 or 75 acres when he left? A Yes sir.
Q But it was raw prairie and un-inclosed? A Yes sir, except what he had inclosed.
Q How far were the posts apart? A Why, I think 16 feet and 1/2. Just a rod.
Q How many wire? A I put 3 on the east, 3 on the south, 2 on the west, joining this farm I now live on.
Q What ever became of his cultivator? A Why, we loaned it there to a neighbor and I don't know really where it is now.
Q He thought it wouldn't last always? A No sir, it was second-hand at the time.
Q What became of the old ground plow? A I think it's there on the farm.
Q It's not in use? A No sir.
Q Well, none of that machinery that he left there then is there in use, or was when he come back 6 years later? A No, without it was the cultivator; I think it was in use when he come back.
Q Did you take a lease on the place? A No, he held that farm and improved it himself; I had a lease on it before he bought it and then I relinquished my right.
Q You never had any lease after '93? A No sir.
Q Did you make the first breaking under a lease? A No sir, he done the breaking.
Q How long did he live on it? A About 6 months.
Q Then he went to Missouri? A Yes sir.
Q Was there any house on it? A Yes sir.
Q What kind of a house? A It was a box house.
Q Did you give him any rents off of it? A Oh yes, he got grain rent; it seems to me it rented the first year for $100 cash rent.
Q What became of these other cattle that he testified he brought there? A Turned them over to me when he come back.

Q How many? A I think about 15 head.
Q But he was mistaken about that old cow born in 1890? A Yes sir.

By the Commission:

Q The farm that you rented from him, is that the one he sold?
A Yes sir, he bought this farm while I had it rented.
Q Did he make all the improvements? A Yes sir.
Q While he was gone? A Yes sir, had some more breaking done and some more improvements and put a few more stock on.

By William Henry White:

Q You say he had some breaking done every year? A Yes sir.

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B. H. CURRY, being duly sworn and examined, testified as follows:

By William Henry White:

Q Your name is B. H. Curry? A Yes sir.
Q Where do you live? A 3 mile northeast of Bluejacket.
Q You know Mr. Barger? A Yes sir.
Q Are you acquainted with the farm which he owns in your vicinity?
A Yes sir.
Q Where is that farm? A It's about 3 mile northeast of Bluejacket.
Q How many acres are there in it? A About 300 acres.
Q Did you take any part in fencing it? A Well, I made all the posts and helped drive them about half a mile.
Q Was that done before he went to Missouri? A Yes sir.
Q Do you know anything about any other property he left here?
A Nothing only what I heard.
Q You know there is a house on this place? A Yes sir, and water.
Q He had a well dug? A Yes sir.
Q Did Mr. Barger still own that when he returned from Missouri?
A Yes sir.
Q How near do you live to this farm, or did you when he was in Missouri? A About a mile.

By W. W. Hastings:

Q Barger has sold this place now? A Yes.
Q How much was inclosed and in cultivation when Mr. Barger left there in '93? A Well, broke ground---
Q How much was inclosed and in cultivation? A About 60 acres of broke ground I think; there wasn't any wire---
Q It was uninclosed? A Until next spring.
Q Spring of '94? A Yes sir.
Q When were the posts set? A They were all set the summer before he went away in the fall.
Q Did you ever rent it? A No sir.
Q You helped him to make these posts? A Yes sir.
Q You don't know anything about any of the other property on the place? A No sir, I don't.

Q You know when he sold it? A Sold the farm?
Q Yes? A No sir, I don't; I think about a year ago.
Q You know whether or not there is any lease on this place?
A No sir.

By William Henry White:

Q You know that he did own it after he came back from Missouri?
A Yes sir.
Q And all the time he was in Missouri? A Yes sir.

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SAMUEL F. BARGER, having been recalled, testified as follows:

By William Henry White:

Q Mr. Barger, Mr. Overstreet has testified that the cow you left in the Territory when you went to Missouri, you kept for a while and then he, for you, traded it for another cow and that second cow was the one you had until this spring?
A Well sir, it was, come to think of it.

By W. W. Hastings:

Q On June 28, 1905, you were living in Missouri, were you?
A Yes sir.
Q On June 28, 1898, you were living in Missouri, were you?
A Yes sir.

By The Commission: No further evidence being offered, proofs are closed, and the case will be submitted to the Commission for further consideration.

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Mabel F. Maxwell, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she correctly recorded the testimony and proceedings in this case, and that the above and foregoing is a true and complete transcript of her stenographic notes thereof.

Mabel F. Maxwell

Subscribed and sworn to before me
this 27th day of May, 1904.

Simon R. Washington
Notary Public.

MFM

Cherokee R-656

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

In the matter of the application for the enrollment of Samuel F., Esta May, Bessie Irene, Gilbert Elton, Roy Franklin and Lula A. Barger as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record herein shows that on September 18, 1900, Samuel F. Barger appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his minor children, Esta May, Bessie Irene, Gilbert Elton and Roy Franklin Barger, as citizens by blood of the Cherokee Nation, and for his wife, Ollie Barger, as a citizen by intermarriage of said Nation, but as the status of intermarried citizens is not at this time fixed Ollie Barger will not be embraced in this decision. Subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Lula A. Barger. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 5, 1900, and at Muskogee, Indian Territory, February 24, 1902

On May 27, 1902, this Commission rendered a decision denying the applicants herein the right to enrollment, said decision being affirmed by the Department. Departmental letter of March 2, 1904 (I.T.D. 8010-1903), rescinded said former decision and remanded the case for readjudication. Supplemental testimony in the matter of said application was taken at Tahlequah, Indian Territory, on May 14, 1904.

The evidence shows that on November 21, 1886, the principal applicant herein was, by the properly constituted authorities, readmitted, as a citizen by blood, to citizenship in the Cherokee Nation, and with the exception below noted he has since continuously resided therein.

The evidence further shows that from 1893 to January, 1899, the principal applicant, with his family, resided in Missouri. During his absence said applicant owned and controlled a large amount of property in the Cherokee Nation, and it does not appear that said absence was of such a nature as to forfeit the

applicant's rights to citizenship in said Nation.

The evidence further shows that the minor applicants herein are the children of said Samuel F. Barger, born since 1890, and have resided with their parents since birth. The said Samuel F. Rata May and Bessie Irene Barger are identified on the Cherokee census roll of 1896.

It is, therefore, the opinion of this Commission that, following the ruling of the Department in the cases of Joseph B. Ladd, et al., (I.T.D. 448-03), and Joseph D. Yeargain et al., (I.T.D. 2900-02), Samuel F. Barger, Rata May Barger, Bessie Irene Barger, Gilbert Riton Barger, Ray Franklin Barger and Lula A. Barger, should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 , (30 Stat. 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this JUL 23 1904

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of Samuel F. Barger et al as citizens by blood of the Cherokee Nation.

P R O T E S T.

The Cherokee Nation protests against the decision of the Commission rendered in this case and asks that same be forwarded to the Honorable Secretary of the Interior for review.

This applicant was readmitted to citizenship on November 21, 1886 and in 1893 he removed to the state of Missouri where he exercised the rights of citizenship just the same as any other citizen of the State of Missouri until 1899 when he came to the Cherokee Nation.

We do not see wherein this case is parallel to that of J. B. Ladd or that of Joseph D. Yeargain et al.

We believe that six years residence in the State of Missouri where applicant exercised the rights of citizenship, brings him under that provision of the Curtis Bill which says:

"No Person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

Respectfully,

W W Hastings

Attorney for the Cherokee Nation.

IN THE DEPARTMENT OF THE INTERIOR

In re Application of)
Samuel F. Barger, et al.,)
for enrollment as citizens)
of the Cherokee Nation.)

----oOo----

BRIEF FOR APPLICANT

The protest of the Cherokee Nation shows that its attorney has no heart in his case. He relies entirely on the fact ~~the~~ that the principal applicant "exercised the rights of citizenship" in the State of Missouri. He is unable to see any relation between it and the Yeargain case, in spite of which case he still believes "that six years residence in the State of Missouri, where applicant exercised the rights of citizenship" forfeits his right of citizenship in the Cherokee Nation.

This is a stronger case than the Yeargain case in that the Yeargains have not even yet removed to the Cherokee Nation, but continue to reside in Missouri, whereas this applicant retunred to the Nation in 1899 and has continued to reside in the Cherokee Nation. That his residence in Missouri was temporary in its character is demonstrated by the physical fact of his actual return to the Nation and his remaining there.

As pointed out in our prior brief the principal applicant was admitted to citizenship in 1886 as a Cherokee by blood. From the time of his admission until the present he has continuously resided in the Nation, with the exception of five years from November, 1893, to January of 1899, during which time he and his family were in Missouri. There can be no question that from the time of his admission in 1886 until 1893, or for more than seven years, he was a bona fide citizen of the Nation and entitled to all of the rights and privileges as such. In this particular his case is parallel with that of the Yeargains, there being no ques-

tion in either case that they were citizens at the time of their removal to Missouri.

The only question in this case then is the identical question discussed in the Yeargain case, namely, as to whether or not the removal to Missouri worked a forfeiture of citizenship.

We are told in the Yeargain case that four things are necessary to work this forfeiture of citizenship:

1. Removal from the Nation.
2. Take with him all of his effects.
3. Become a citizen of another government.
4. Do all of this with the intent of abandoning Cherokee citizenship.

Taking these in their order we admit:

1. The temporary removal from the Nation.
2. The supplemental testimony taken at Tahlequah May 14, 1904, is as follows:

That when the applicant went to Missouri he left two farms in the Nation together with personal property. One of the farms consisted of 300 acres under fence, of which 60 acres were under cultivation. The applicant owned this farm all of the time he was absent from the Cherokee Nation, having sold it about 1900 or about a year or more after his return to the Nation. The other famr consisted of 150 acres under fence. The personal property which he left in the Nation consisted of farming implements and 16 head of cattle, only one of which he left on the farm when he went to Missouri and 15 of which he put upon the farm while he was in Missouri. He also added materially to the improvements on the farm while in Missouri. This testimony of the applicant is fully supported by witnesses J. B. Overstreet and B. H. Curry, who were neighbors of the principal applicant when he removed to the Nation and who continued to reside in the same locality of these farms and personally knew of the facts. It is clear, therefore, that this applicant did not remove his effects when he left the Nation for his temporary absence in Missouri.

3. This has been fully briefed heretofore by us in this case.

4. The intention of this applicant is shown in various ways:

First, in his statement made in his former testimony cit-ed in our former brief, as follows:

> The reason I was out of the Nation was my grandmother was getting old and I had to go and live with her in Missouri; she wouldn't come here and I went there to take care of her.

And again in the supplemental testimony:

> I went there to take care of my grandmother. She lived there and wouldn't come to the Territory.
> Q. What was your intention with regard to returning to the Territory when you left? A. I aimed to come back just as soon as I could.
> Q. And did you come back as soon as you could? A. Yes,sir.

Second, his intention to return is shown by his continuing to improve his farms in the Nation and by sending personal property to the Nation during his absence; and

Third, by his actualix returning

We, therefore, respectfully submit that the principal applicant and all of his children should at this time be ~~admitted~~ enrolled ~~to~~ as citizen~~ship~~ and that his wife is also entitled to citizenship as an intermarried white citizen.

Respectfully submitted,

Harry Skinkfall

Hu Henry White

Attorneys for Applicants.

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re)
Application of Samuel F. Barger, :
et al., for Enrollment as Chero-)
kee Citizens. :

----oOo----

MOTION FOR REVIEW.

Now come the applicants by their attorneys and move that the decision in this cause be set aside and that the said cause be reopened and reviewed for the reasons set forth in the brief hereto annexed.

Henry S. Kimball
Thurmy White
Attorneys for Applicants.

IN THE DEPARTMENT OF THE INTERIOR.

----ooo----

In re)
Application of Samuel F. Barger, :
et al., for Enrollment as Chero-)
kee citizens. :

----ooo----

BRIEF FOR APPLICANTS.

The facts in this case as disclosed by the record and as found by the Commission are substantially as follows:

Samuel F. Barger was admitted to citizenship in 1886 as a Cherokee by blood. He was married to a white woman prior to 1895. His children are all minors and were born before September 1, 1902. From the time of his admission in 1886 until the present time he has continuously resided in the Cherokee Nation with the exception of five years from November of 1893 to January of 1899, during which time he and his family were in Missouri. By reason of this temporary residence in Missouri he has been rejected by the Commission and the facts surrounding his absence from the Territory are, therefore, very material.

At the time of going to Missouri he had a farm in the Cherokee Nation and was making his home in the Nation. His reason for this absence in Missouri is uncontradicted and is as follows:

> "The reason I was out of the Nation was my grandmother was getting old and I had to go and live with her in Missouri; she wouldn't come here and I went there to take care of her."

He further states that his home is in the Cherokee Nation, that his mother lived there and that he had property there. He voted in Missouri for president only and took no part whatever in any state elections. He did not [illegible] any property in Missouri

nor pay any taxes and his intention of returning to the Nation to make it his permanent home is shown by the fact that as soon as the immediate purpose of his stay in Missouri was accomplished he returned to his farm in the Cherokee Nation.

There can be little doubt that under the Yeargains decision these applicants must be enrolled. That he removed to the Nation and settled there in good faith is abundantly established. he lived there continuously from 1886 to 1893, or for more than seven years, on a farm set apart for him out of the public domain. They were properly enrolled as Cherokee citizens and he has never parted with any of his property at all.

Following the direction laid down in the Yeargains case we find that the only question is as to whether or not under Cherokee law his temporary residence in Missouri worked a forfeiture of his citizenship rights.

We are told in that case that four things are necessary to work this forfeiture; namely,

1. Removal from the Nation;
2. Take with him all his effects;
3. Become a citizen of another government;
4. Do all of these with the intention of abandoning his Cherokee citizenship.

Taking them up in order we find that instead of removing from the Cherokee Nation that he was merely absent therefrom for a period of five years in a very laudable occupation in caring for his grandmother during the last years of her life.

2. He did not remove any of his effects from the Cherokee Nation; on the contrary, left all of his possessions in the Nation, continued to own them and still owns them.

3. In voting for president in Missouri he merely cast an illegal vote. To become a citizen of Missouri he must first have become a citizen of the United States and he was that under a special act of Congress which declares that making him such shall

not work a forfeiture of his tribal rights to property.

4. The question of intent here is very simple and the evidence all points to one conclusion, that he had no intention of forfeiting his Cherokee citizenship. This intent is shown in various ways: first, when he left it was not for the purpose of making a new home for himself and his family in Missouri, but for the purpose of caring for his grandmother in her old age; second, instead of breaking off his connection with the Territory he continued to own his farm in the Nation and the evidence does not disclose that he took a single bit of property with him to Missouri; on the contrary, it would seem that he took nothing as it is shown that he paid absolutely no taxes of any kind in Missouri.

5. His purpose in going to Missouri accomplished, he returned at once to his farm in the Nation where he has continued to reside. His uncontradicted declaration about his intention is that the Cherokee Nation was always his home, his mother's home and that he had no home any place else.

6. When we have the statement of a witness uncontradicted every presumption is in favor of its truth; when we have in addition to that all of the physical facts of the case supporting that testimony with not a single fact tending to contradict it in any way, the testimony no longer needs the aid of presumption, but amounts to demonstration.

We respectfully submit that under the decision of the Yeargains case all of these applicants should be enrolled.

Harry T. Kimball
H. Henry Shele
Attorneys for Applicants.

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Samuel J. Barger et al.

In re
Samuel J Barger, et al

Motion for Review
&
Brief in Support.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Cher. D-325.

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes in the matter of the application for the enrollment of Samuel F. Barger and his children, Esta M. Barger, Bessie I. Barger, Gilbert M. Barger, Roy F. Barger, and Lula A. Barger, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Ollie A. Barger, as a citizen by intermarriage of the Cherokee Nation.

This decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision.

The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Very respectfully,

Acting Chairman.

Encl. C-2.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

September 22, 1903.

W. W. Hastings, Esq.,

Muscogee, Ind. Ter.

Dear Sir:

We enclose herewith carbon copy of motion for review and rehearing and brief in support thereof on behalf of applicant in re application of Samuel F. Barger, et al., for enrollment as citizens of the Cherokee Nation.

Very respectfully,

Kimball & White

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DEPARTMENT OF THE INTERIOR. FHE

WASHINGTON.

I.T.D. 8368-1903.
3578-1902.

October 1, 1903.

LRS

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Sir:

Referring to your letter of September 18, 1903, transmitting brief on the part of the Cherokee Nation, in answer to a motion filed by the attorneys in the case involving the application of Samuel F. Barger, et al., for enrollment as Cherokee citizens, as it appears that your brief has not been served upon the attorneys for the applicant, as it should have been, but upon Barger, the brief is returned herewith to be properly served.

Respectfully,

Thos Ryan

Acting Secretary.

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COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING
Cherokee R-656

Tahlequah, Indian Territory, March 16, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that on March 2, 1904, the Secretary of the Interior, on motion of the attorney for the applicants, reopened and remanded for further proceedings the application of Samuel F. Barger, et al., for enrollment as Cherokee citizens, Cherokee R-656.

The principal applicant, Samuel F. Barger, has been notified by letter, addressed to him at Fairland, Indian Territory, to appear at the Cherokee Land Office of the Commission, at Tahlequah, Indian Territory, on or before April 16, 1904, and submit evidence as to what effects, if any, he had in the Cherokee Nation while living in Missouri, and as to whether he became a citizen of that State.

Respectfully,

C. R. Breckinridge

Commissioner in Charge.

GRS

C. R. 656

Cases to be
heard at Jubbulpur
on or before 16th [illegible]

B08

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING
Cherokee R-656.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tahlequah, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:-

You are hereby notified that at the request of William Henry White of Washington, D. C., attorney for Samuel F. Barger, et al, Cherokee R-656, the hearing of further testimony in that application for enrollment has been continued to May 14, 1904.

Respectfully,

C. R. Breckinridge

Commissioner in Charge
Cherokee Land Office.

RP

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COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

WM. O. BEALL,
Secretary

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee R-656.

Muskogee, Indian Territory, July 28, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, granting the application for the enrollment of Samuel F. Barger, Esta May Barger, Bessie Irene Barger, Gilbert Elton Barger, Roy Franklin Barger and Lula A. Barger, as citizens by blood of the Cherokee Nation.

You will be allowed fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Commissioner in Charge.

Encl. S-84.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

October 6, 1904.

W. F. Hastings, Esq.,

Muskogee, Ind. Ter.

Dear Sir:

Enclosed please find carbon copy of brief for applicants in re application of Samuel F. Barger, et al., for enrollment as Cherokee citizens.

Yours very truly,

William H. White

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.
WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING:
Cherokee D 325
(R 656)

Muskogee, Indian Territory, October 28, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated July 23, 1904, granting the application for the enrollment of Samuel F. Barger and his minor children, Esta May, Bessie Irene, Gilbert Elton, Roy Franklin and Lula A. Barger, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on October 19, 1904.

Respectfully,

Chairman.

IN THE MATTER OF THE APPLICATION OF

Samuel F. Barger, et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Tra

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

Cher D 326

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Pryor Creek, IT. September 12th, 1900.

In the matter of the application of Perlina Herrin for enrollment as a citizen of the Cherokee Nation. The said Perlina Herrin being sworn by Commissioner T. B. Needles, testified as follows:

Q That is your name? A Perlina Herrin.
Q What is your age? A Fifty-two.
Q What is your post office address? A Pryor Creek.
Q Are you a recognized citizen of the Cherokee Nation?
A Yes, sir.
Q By blood? A Yes, sir.
Q What degree of blood do you claim? A About one-eighth.
Q What district do you live in? A Coowescoowee.
Q How long have you lived in the Cherokee Nation? A Ever since 1883.
Q Is your name upon the Cherokee roll of 1880? A No, sir.
Q By what right do you claim citizenship? A By my being on the old settler roll.
Q Are you on the roll of 1896? A Yes, sir. I am on the roll of 1896.
Q Were you ever admitted to citizenship by the Cherokee Council? A Yes, sir.
Q Have you your certificate? A No.
Q What proof have you got of your admission?
A Here is Jim King.
BYSTANDER: She was admitted in 1883. I was present at the time
Q Who do you apply for? A For yself and one child.
Q What is the name of the child? A Walter M.
Q How old is he? A He is ten years old.
Q When did you say you came to the Cherokee Nation? A 1883.
Q Have you lived here since that time? A Not all the time. I moved back in 1891.
Q How long did you stay there? A I have been here ever since.
Q Where did you move away to at the time you resided in the States?
A I married a white man.
Q Verywell, but how long did you live in the States before you moved back to the Cherokee Nation.
A I lived from the time I was born until 1883.
Q Then how long did you live in the Cherokee Nation before you moved back? A I came back and got on the roll in 1883, and my husband went back and before he got his business fixed up he died. And after he died I moved to the Territory
Q When was that, 1891? A Yes, sir; 1891.
Q Did you live in the states from 1883 to 1891? A Yes, sir.
Q What state? A Arkansas.
Q You have been living in the Cherokee Nation ever since 1891?
MR. HASTINGS: (Representative of the Cherokee Nation)
Q Your husband was a white man? A Yes, sir.
Q How long did you stay here in 1883 when you came back?
A I came back i August and went back in september.
Q About a month? A Yes, sir.
Q You heard they were going to draw their money in 1891 and you came back to the country? A No, I didn't know they were going to draw any money. I just moved back.

Q Your husband was a citizen of Arkansas and you owned a farm there ? A Yes, sir .
Q You owned the farm up until 1891? A Yes, sir .
Q What part of Arkansas did you live in? A Hot Springs County. Bismark was the post office.

(on Roll 1896, page 184, No. 2456. Pauline Harrin, Coowescoowee District .
(On 1896 roll Walter H. Harrin, page 184, No. 2460, Coowescoowee District.
Q Is Walter H. Harrin living with you? A Yes.
Q Where was he born? A In Arkansas.
Q And he came with you from Arkansas the last time? A Yes, sir

The name of Pauline Harrin appears upon the Census roll of 1896, and the name of her son Walter H appears upon the said roll. She avers that he was admitted to citizenship by the Cherokee authorities in 1883, but presents no certificate of admission. She testifies that she has not resided in the Cherokee Nation longer than since 1891. Final judgment as to the application of the said Pauline or Parlina Harrin will be suspended and her name will be placed upon a doubtful card awaiting the presentiotion to this Commission of a certified copy of the act admitting her to citizenship in the Cherokee Nation, and also as to further proof as to residence.

The undersigned being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in the foregoing cause and that the foregoing is a correct transcript of his stenographic notes thereof .

Subscribed and sworn to before me this 14th day of September A.D.1900.

Commissioner.

D 326

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 27, 1900.

D. 386.

In the matter of the application of Paulina E. Herring (Perlina Herring).

Additional Testimony.

Paulina E. Herring, being sworn and examined by Commissioner Breckenridge, she testified as follows:

Q Give me your full name? A Paulina E. Herring.
Q How old are you? A 52 years old.
Q What is your post office? A Pryor Creek.
Q In what district do you live? A Coweescoowee.
Q Who is it you want to have put on the roll, yourself? A Yes, sir, and one child.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A I have been living here nearly ten years.
Q How did you acquire your citizenship as a Cherokee, by admission?
A Yes, sir.

(The applicant presents an official copy of an act of the Cherokee Commission on Citizenship admitting, September 3, 1883, certain persons to citizenship, and among them appears the name of Paulina E. Herring. This is recognized as official evidence of the fact.)

Q That is your name, is it, madam? A Yes, sir.
Q Under that admission you came here some ten years ago? A Yes, sir.
Q And you have lived here ever since? A Yes, sir, ever since.
Q When were you married? A I have been married about 35 years.
Q What is your husband's name? A E. W. Herring.
Q He dead or alive? A He is dead.
Q What was your father's name? A John K. Allen.
Q Dead or alive? A He is dead.
Q Your mother's name? A Malinda.
Q She dead? A Yes, sir.
Q Give me the name of your child? A Walter H. Herring.
Q How old is that child? A 9 years old.
Q He is living now, is he? A Yes, sir.

The applicant is found to have made her application September 13, 1900, and her card is D.386, but as she presents official evidence in her certificate of admission at this time, what she states now will be preserved as additional testimony, and attention is also called to the Cherokee act of December 4, 1890, set forth on page 138, Report of the Commission in 1899, as affecting her right arising from the time her residence in the Cherokee Nation began. This is cited also in connection with the application for the child.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 26th of September, 1900.

Commissioner.

wgs

D 326.

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 25, 1902.

In the matter of the application of Pauline E. Herrin, for the enrollment of herself and son as citizens of the Cherokee Nation:

Appearances:
Applicant present in person;
W W Hastings, for the Cherokee Nation.

PAULINE E. HERRIN, being sworn and examined, testified as follows:

Q What is your name ? A Pauline E. Herrin.
Q How old are you ? A I am 53.
Q Your post office address ? A Pryor Creek.
Q You are an applicant before the Commission for enrollment as a Cherokee citizen ? A Yes sir.
Q Is there any statement you desire to make relative to your enrollment ?
A My papers is here before the Commission. I have two brothers and one cousin here to testify.

A. C. B. ALLEN, being sworn and examined, testified as follows:

Q What is your name ? A A. C. B. Allen.
Q Where do you live ? A Vinita.
Q Are you acquainted with the applicant in this case, Pauline E. Herrin ? A Yes sir, she's my sister.
Q Same father and mother ? A Yes sir.
Q Were you admitted to citizenship at the sametime she claims to have been admitted ? A Yes sir, the day after, I believe.
Q Were you living in the Cherokee Nation at that time ?
A Yes sir.
Q Do you know of your own knowledge when the applicant came to the Cherokee Nation ? A She came here in 1883.
Q How long did she remain ? A I think she went back to Arkansas.
Q How long did she remain here ? A But a short time.
Q About how long ?
A I can't say, because at that time I lived at Claremore, and I went back home and left her at Tahlequah.
Q Did she come up to be admitted ? A Yes sir.
Q When did you next hear of her being in the Cherokee Nation ?
A I think it was about '90, perhaps, when she came back.
Q Do you know why she left the Cherokee Nation and went back to Arkansas ?
A She told me she was going back and dispose of their property there and come back.
Q Do you know whether she owned any property here prior to her return to Arkansas ?
A Before she returned to Arkansas ?
Q Yes. A No sir, she didn't own any before she returned.
Q I mean along in 1883, did she own any property here then ?
A No sir, there didn't any of us, because we had just come out to be admitted. She didn't acquire any property until she came in 1890. Our father left a farm that belonged to her and me and my neice, when he died.
Q When did he die ? A About 1885.
By Mr. Hastings:
Q She just had an heir's interest in that estate ? A Yes sir.

The Commission: Is there any further statement you desire to make relative to her case ?
A I know I kept that farm until she returned to the Territory, and then I sold it. I was talking to the fellow I sold it to yesterday. He said it was in 1890 or '91. I sold it to Zeno Cox. I sent her her part of the rent all the time, and when I sold it I sent her one third of the proceeds.
Q Did she derive any rent from that farm ? A Yes sir.
Q What rent did you pay her in 1887 ?
A I can't tell you the amount of the rent. I just sold the crop and gave her one third of the proceeds.

JAMES A. KING, being sworn and examined, testified as follows:

Q What is your name ? A James A. King.
Q What is your post office address ? A Tahlequah.
Q How old are you ? A I am 48.
Q Are you acquainted with the applicant in this case ? A Yes sir.
Q Are you related to her ? A She's my first cousin.
Q Where were you living when she claims to have been admitted to citizenship ? A I was living at Tahlequah.
Q Did you see her there at that time ? A Yes sir.
Q How long have you continued to live there ?
A Ever since that date.
Q Was she living there during that time, or did she just come to stay there until she was admitted.
Q They come and put up a tent over at my father's place. She was there a month. There was a Commissioners' court in session there when she made this application.
Q How long did she reside there ? A About a month. I know that they returned back to where they had a home in Arkansas.
Q When did you next see her in the Cherokee Nation ?
A In '91 or '92.
Q Have you seen her here continuously since that time ?
A She lived at Tahlequah quite a while, three or four years, and then moved up to where she lives now; at Pryor Creek.
Q You don't know anything about this property she claims to have inherited from her father ?
A X Only what has been told me.
The Commission: Is there any question you desire to ask the witness, Mrs. Herrin ? A No sir.
Q Is there any other statement you desire to make about this case ?
A Nothing more than I have stated.

THOMAS P. ~~ALLEN~~ ALLEN, being sworn and examined, testified as follows:

Q What is your name ? A Thomas P. Allen.
Q How old are you ? A I am 40 years old.
Q Post office address ? A Vinita.
Q Are you a brother of the applicant ? A Yes sir.
Q Were you admitted to citizenship at the sametime she was ?
A Yes sir.
Q Did you remain here in the Cherokee Nation ? A Yes sir.
Q How long did she remain after her admission to citizenship ?
A Well sir, I can't say how long; but she went back down into Arkansas sometime that fall.
Q When did you next see her in the Cherokee Nation ?
A The first time I saw her I don't recollect. She was at Tahlequah the first time I saw her, but I can't recollect the date.

Q About how many years was it after her admission ?
A She was admitted in 1883, and it must have been six or seven years. I can't tell exactly.
Q Did you own any property in the Cherokee Nation when you were admitted to citizenship ? A No sir.
Q Did you acquire any property after your admission ? A Yes sir
Q From whom did you receive the property ?
A From my father's estate.
Q Was the applicant given a portion of your father's estate ?
A Yes sir.
Q That was the only property she owned here prior to the time she came in 1890 or '91, when she returned ?
A I am not sure as to that. I wouldn't say it was the only.
Q That's all you know about ? A Yes sir.
The Commission Is there any question you desire to ask the witness Mrs. Herrin ? A No sir.
Q Is there any other statement you want to make about this case ?
A I believe not.

Do you submit this case to the Commission for final consideration Mrs. Herrin ? A Yes sir.

The applicant and representatives of the Cherokee Nation submit this case to the Commission for final consideration, and the same is ordered closed, and is reported to the Commission for its final decision based upon the evidence now on file.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

79. D326

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

In the matter of the application of Paulina E. Herrin for the enrollment of herself and minor child, Walter H. Herrin, as citizens by blood of the Cherokee Nation.

DECISION.

--oOo--

The record in this case shows that on September 12, 1900, Paulina E. Herrin appeared before the Commission at Pryor Creek, Indian Territory, and made application for the enrollment of herself, and her minor child, Walter H. Herrin, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on September 27, 1900, and at Muskogee, Indian Territory, on September 25, 1902.

The evidence shows that the said Paulina E. Herrin, a native Cherokee, was admitted to the rights and privileges of Cherokee citizenship on September 7, 1883, without conditions as to residence, by the Commission on Citizenship of the Cherokee Nation, organized under an Act of the National Council of the Cherokee Nation approved November 26, 1879, which did not specify any time within which a person admitted by the Commission, provided for in that Act, should take up his residence in the Cherokee Nation. After her admission in 1883 the said Paulina E. Herrin remained in the Cherokee Nation but a very short time before returning to Arkansas with her husband, a white man, in order to close out his business interests there. Before this was done her husband died and upon his death the said Paulina E. Herrin returned to the Cherokee Nation, in 1890 or 1891, prior to the enactment of the Act of the Cherokee Council of December 4, 1894, requiring all persons who had been readmitted to citizenship in the Cherokee Nation to permanently locate within the limits of the Cherokee Nation within six months from the passage of that Act, and she and her son, Walter H. Herrin, have resided in the Cherokee Nation ever since.

The said Paulina E. Herrin and her son, Walter H. Herrin, are both enrolled on the Cherokee Census roll of 1896.

It is, therefore, the opinion of this Commission that Paulina E. Herrin and Walter H. Herrin should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this SEP 20 1902.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

B. 226.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of William R. Motte for the enrollment of himself, his wife, Mary M. Motte, his three minor children, Emma, Joseph H., and Rebecca A. Motte, and his nephew, Thomas Henry, as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. C-226.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 326.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of Paulina E. Herrin for the enrollment of herself and her minor child, Walter H. Herrin, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 79.

IN THE MATTER OF THE APPLICATION OF

E. Coulson, Hennan et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony September 12, 1900

B. Additional " " 27, 1900

C. Receipt for testimony

D. Notice of final consideration

Submitted & order denying test 2/25/02

Transferred

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Cher D 327

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 18th, 1900.

IN THE MATTER OF THE APPLICATION OF JOSEPH P. BARGER FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND ONE CHILD AS CHEROKEE CITIZENS.

The said Joseph P. Barger, being duly sworn by Commissioner T. M. Needles, testified as follows:

Q What is your name? A Joseph P. Barger.
Q How old are you? A Twenty-five.
Q What is your post office address? A Moyl.
Q What District do you live in? A Cooweescoowee.
Q For whom do you apply for enrollment? A For me and my wife and one child.
Q Are you a recognized citizen of the Cherokee nation by blood? A Yes, sir.
Q What degree of blood do you claim? A One-eighth, I think.
Q What is the name of your father? A William Barger.
Q Is he living? A No, sir; he is dead.
Q What is the name of your mother? A Caroline.
Q Is she living? A Yes, sir.
Q What is the name of your wife? A Lulu.
Q Is she a white woman? A Yes, sir.
Q What was her name before you married her? A Lulu Wilson.
Q When were you married? A It will soon be three years.
Q You present a certificate of marriage certifying that you were married to one Miss Lulu Wilson, a white person according to the laws of the United States on the 5th day of April, 1898. What is the name of your child? A Maggie.
Q How old is she? A Fourteen months.
Q Have you proof of its birth? A (No response)
Q Is that the only child? A Yes, sir.
Q Is this child alive and living with you? A Yes, sir.
Q Have you been admitted to citizenship by the Cherokee Council? A Yes, sir.

TO WITNESS: You present what purports to be a certified copy of an act readmitting Caroline Barger to citizenship and her five children. Among the name of said children I find the name of Frank Barger. Said certificate being signed by L. P. Bell president of the senate, T. T. Hanks, Clerk of the senate, concurred in by the House November 17th, 1866. Signed by Alex. Hawk, Speaker of the Council, by S. C. Lieb, Clerk.

Q Are you the identical Frank Barger mentioned in this certificate? A Yes, sir.
Q You go by the name of Frank? A Yes, sir.
Q Your name is Joseph Frank? A Yes, sir.

1896 Roll, page 113, No. 490, Frank Barger, Cooweescoowee District.

THE COMMISSIONER: The name of Joseph P. Barger is found upon the Census Roll of 1896. He presents what purports to be a certificate of admission. The same is not under seal of

ceived--and said certificate shows that the same was not approved by the chief. Final judgment as to his enrollment will be suspended and his name will be placed upon a doubtful card awaiting proper proof of his admission. The applicant also applies for the enrollment of his wife Lulu. The certificate of marriage which he presents certifies that he was married to her, a white person, in the year 1898, too late under the laws of the Cherokee Nation for her to be recognized as an intermarried citizen; consequently the application for the enrollment of his wife Lulu will be refused. He also presents satisfactory proof of birth as to Maggie C., a child fourteen months old. Final judgment as to the enrollment of the said Mag is will also be suspended, and her name will be placed upon a doubtful card with that of her father.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm. A. McKhean

Subscribed and sworn to before me this 28th day of September A. D. 1900.

C. R. Breckinridge

Commissioner.

2357

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FILED
SEP 25 1906

ACTING CHAIRMAN

D. 527.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of Joseph F. Barger for the enrollment of himself and children as citizens of the Cherokee Nation.

Applicant present in person.
Cherokee Nation represented by W. W. Hastings.

COMMISSION: Do you submit this case to the Commission for final consideration? A Yes, sir.

The applicant and the representatives of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed and reported for final decision based upon the evidence now filed.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 26th day of February, 1902.

Commissioner.

D. 327.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 13, 1902.

In the matter of the application of Joseph F. Barger et al for enrollment as citizens of the Cherokee Nation.

SUPPLEMENTAL TO D-327.

Applicant present in person.

COMMISSION: The applicant in this case was notified by registered letter April 30, 1902, to appear before the Commission at its offices in Muskogee, Indian Territory, on the 13th day of May, 1902, and introduce further testimony as to the residence of himself and family in the Cherokee Nation. He this day, to wit the 13th day of May, 1902, appears, and the following proceedings were had.

JOSEPH F. BARGER, being first duly sworn, testified as follows:

COMMISSION: What is your name? A Joseph F. Barger.
Q How old are you? A Will be 27 this fall, October.
Q What is your postoffice address? A Foyil.
Q You have heretofore applied to the Commission for the enrollment of yourself and family ascitizens of the Cherokee Nation? A Yes, sir.
Q You are a Cherokee by blood or a white man? A Cherokee by blood.
Q Your wife a Cherokee by blood? A No, sir, she's a white woman.
Q Where were you born? A Born in Kansas.
Q Where? A Kansas.
Q When did you come to the Cherokee Nation? A Why it's been '86 I believe it was.
Q Have you lived here continuously since that time? A Yes, sir.
Q Have you been out of the Nation since then? A Why not only on trips, I have worked up in Jackson County, Missouri, one year, one summer rather.
Q What summer was that? A Let's see, I believe about seven years ago.
Q Is that the last time you have been out of the Territory for any length of time? A Yes, sir, for any length of time.
Q Have you ever made your home since '86 outside of the limits of the Territory? A No, sir, not only that season I was working up there, my home wasn't there, my home was here.
Q When were you married to your wife? A In 1898.
Q She has lived here continuously ever since that time? A Yes, sir.
Q Was your children born in the Cherokee Nation? A Yes, sir.
Q Has it always lived here? A Yes, sir.
Q Where were you living in June, 1898, four years ago? A In June, let's see, four years ago I was living with my mother.
Q Where? A On Verdigris River.
Q In the Cherokee Nation? A Yes, sir.
Q You have lived here since that time continuously? A Yes, sir.

Arthur C. Geddinger, being first duly sworn, states that as

stenographer to the Commission to the Five Civilized Tribes he reported the proceedings and testimony in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Cronmyer

Subscribed and sworn to before me this 12th day of May, 1902.

Notary Public.

Cherokee D 327.

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

In the matter of the application of Joseph F. Barger for the enrollment of himself and his two minor children, Maggie C. and Emma Minnie Barger, as citizens by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 18, 1900, Joseph F. Barger appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his minor child, Maggie C. Barger, as citizens by blood of the Cherokee Nation. The application included his wife, Lyddia L. Barger, but, as she is differently classified, she is not embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on May 12, 1902.

The evidence shows that the said Joseph F. Barger, a Cherokee by blood, was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation on November 21, 1886. The said Joseph F. Barger is identified on the Cherokee Census roll of 1896. Two children, Maggie C. and Emma Minnie Barger, were born to Joseph F. Barger and his lawful wife, Lyddia L. Barger, on July 26, 1899 and December 16, 1901, respectively, and proper proof of their births has been furnished this Commission.

The evidence further shows that the said Joseph F. Barger has lived in the Cherokee Nation ever since the year 1886, except during one summer, about the year 1895. It is considered that his two children, Maggie C. and Emma Minnie Barger, have lived continuously in the Cherokee Nation, with their parents, since their birth.

It is, therefore, the opinion of this Commission that Joseph F. Barger, Maggie C. Barger and Emma Minnie Barger, should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

P. A. Bressinski
Commissioner.

Dated at Muskogee, Indian Territory,
this SEP 20 1902.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 327.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of Joseph F. Barger for the enrollment of himself and his two minor children, Maggie C. and Emma Minnie Barger, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 78.

IN THE MATTER OF THE APPLICATION OF

Joseph G. Barger, et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony - September 18, 1900
B. Mem. of application - " 18, 1900
C. Birth affidavit - Maggie E. Barger
D. Copy of act of readmission
E. Letter re to enrollment
F. Birth affidavit Ernest M. Barger

Notice of final consideration
Order closing testimony 2/24/17

See Cherokee Jacket R 143

Cher D 328

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 22th, 1900.

IN THE MATTER OF THE APPLICATION OF JOHNSON LYMAN FOR THE ENROLLMENT OF NIVERLE, his WIFE AND FOUR CHILDREN.

The said Johnson Lyman, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your full name? A Johnson Lyman.
Q What is your age? A Forty-two.
Q What is your post office address? A Vinita, I.T.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation?
A Yes, sir.
Q By blood? A Yes, sir.
Q What degree of blood do you claim? A One-fourth.
Q For whom do you apply? A Myself and wife and four children.
Q Is your father living? A No, sir; he indead
Q What was his name? A Patrick Lyman.
Q What was the name of your mother? A Ruth.
Q Is she living? A No, sir.
Q What was the name of your wife? A Evaline.
Q Is she an Indian by blood? A Yes, sir.
Q When were you married to her? A In 1884.
Q What was her name before you married her? A Meeker.
Q What is her age? A She is about thirty-seven.
Q Do you know her father's name? A Reese Hildebrand.
Q Is he living? A No, sir.
Q What was her mother's name? A Amanda.
Q Is she living? A No, sir.
Q What is the name of your children? A James Lyman.
Q How old is he? A Fifteen.
Q What is the name of your next child? A Joseph.
Q How old is Joseph? A He is thirteen.
Q The next one? A Martha.
Q How old is Martha? A She is ten.
Q The next? A Sallie.
Q How old? A She is seven.
Q Have these children any middle name, any of them?
A No, sir.
Q Are these children alive and living with you at this time?
A Yes, sir.
Q Were you admitted to citizenship? A I was born and raised here. I never was away from the Nation but one year.
Q Have you a certificate of admission? A No, sir
Q By what right do you claim citizenship? A I was born and raised here. I wasnot away but one year and that was 1880.
Q You have not been recognized as a citizen by the authorities of the Nation without you are on the 1880 roll, and you dont seem to be there.
1896 Roll, page 200, No. 2854, Johnson Lyman, Cooweescoowee District.
1896 Roll, page 200, No. 2855, Evaline Lyman, Cooweescoowee District.
1880 Roll, page 53, No. 903, Evaline Meeker, Canadian District.
1896 Roll, page 200, No. 2856, James Lyman, Cooweescoowee District.
1896 Roll, page 200, No. 2857, Joseph Lyman, Cooweescoowee District.

1896 Roll, page 200, No. 2858, Martha Lyman, Cooweescoowee District.

1896 Roll, page 200, No. 2859, Callie Lyman, Cooweescoowee District.

Q Your father and mother died before 1880? A Yes, sir.

THE COMMISSIONER. The name of Johnson Lyman appears upon the Census roll of 1896; his name does not appear upon the Authenticated Roll of 1880. He claims to be an Indian by blood, claiming one-fourth blood.

Q. Are these children living with you? A Yes, sir.

THE COMMISSIONER: The name of his wife Evaline is found upon the Authenticated Roll of 1880 as Evaline Meeker, her maiden name, and on the Census Roll of 1896 as Evaline Lyman. The names of his children James, Joseph, Martha and Callie are found upon the Census Roll of 1896, and are duly identified as the children of Evaline Meeker, now Evaline Lyman. Satisfactory proof as to their residence being made, the said Evaline Lyman and her children enumerated in the testimony will be duly enlisted for enrollment by this commission as Cherokee citizens by blood. Final decision as to the enrollment of the said Johnson Lyman will be suspended, and his name will be placed upon a doubtful card, awaiting satisfactory proof as to his citizenship.

The undersigned being duly sworn, states thatas stenographer to the commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in the above application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

W. S. Mellhea

Subscribed and sworn tobefore me this 25th day of September A. D. 1900.

C. R. Breen

Commissioner.

Supplemental testimony to go with D Card #328.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, IT., SEPTEMBER 29 , 1900.

Supplemental testimony in the matter of the application of Johnson Lyman for enrollment as a citizen of the Cherokee Nation.

Said Johnson Lyman being sworn by Commissiondr T. B. Needles, testified as follows:

Q What is your name? A Johnson Lyman.
Q How old are you, Mr. Lyman? A 42.
Q What is your post office address? A Vinita.
Q What district do you live in? A Delaware.
Q Are you a redongized citizenof the Cherokee Nation? Yes,sir
Q By blood? A Yes, sir.
Q What degree of blood do you claim? A Quarter, fourth.
Q Who do you desire to enroll? A Just myself.
How long have you lived in the Cherokee Nation? A All my life but one year. That was when the 1880 roll was taken
Q Is your name on the 1880 roll? A No, sir, I was in here before and you told me to bring in witnesses to prove my citizenship.
Q Are you enrolled? A No,sir, my family was enrolled.

William C. Chamberlain, being sworn and examined testified as follow

Q What is your name? A William C. Chamberlain.
Q Your age? A 48.
Q Post office address? A Vinita.
Q Do you know Johnson Lyman A Yes, sir.

Interrogatories by Mr. Johnson Lyman:

Q Do you know that I am a Cherokee citizen by blood? A I always here you were, I never heard it disputed.

Com'r Needles:
Q Do you know his father? A Yes,sir.
Q Was his father a Cherokee citizen by blood? A No,sir.
Q Do you know his mother? A No,sir.
Q Consequently you do not know whether she is Cherokee or not?
A Only by hearsay.

Nellie Madden, beingsworn and examined , testified as follows:
Q What is your name? A Nellie Madden.
Q What is your age? A 50.
Q Your post office? A Edna, Kansas.
Q You reside in Kansas? A No,sir, in the Nation.
Q Are you a Cherokee citizen by blood? A Yes, sir.
Q Do you know Johnson Lyman? A Yes, sir.
Q Did you know his father?A Yes, sir.
Q Was he Cherokee? A No, sir, white man
Q Did you know his mother? A Yes, sir.
Q What was her name? A Ruthe Foreman.
Q Was she Cherokee by blood? A Yes, sir.
Q Is she living? A No, sir,
Q How long have you known Johnson Lyman? A All of his life.
Q Did you know him to be a son of Ruthe Forman? A Yes, sir.
Q Has he always lived in the Cherokee Nation? A Yes, sir.
Q Do you know any reason why his name was not of the roll of 1880?
A He was away working on some railroad and was not in here and no one put it down for him.

Johnson Lyman---2.

Q Was his mother living in here then? A She was dead then.
Q Where was his father? A He was dead.
Q This boy was an orphan boy in 1880? A Yes, sir.

Charlotte C. Martin, being sworn and examined, testified as follows

Q What is your name? A Charlotte C. Martin.
Q What is your post office address? A Vinita.
Q Do you know Johnson Lyman? A Yes, sir.
Q Did you know his mother? A No, sir.
Q You know nothing about his citizenship? A He was recognized as a citizen. I went to school with him three or four years at the Orphan Asylum and he was recognized as a citizen.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 1st day of October, 1900.

Commissioner.

1328

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1900

440

Cherokee D.328

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 28,1902.

In the matter of the application of Johnson Lyman for enrollment as a Cherokee citizen.

Supplemental Statement.

--oOo--

Upon an examination of the Cherokee Tribal roll of 1880 in possession of this Commission the name of Ruth Foreman is found thereon as a native Cherokee forty-one years old and marked "dead". She is supposed to be the mother of the applicant, Johnson Lyman.

It is directed that copies of this statement be filed with the testimony in the above case.

Commissioner.

[illegible]

[illegible]

MEMORANDUM ON THE [illegible]

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February [illegible], 1902.

In the matter of the application of [illegible] for enrollment as a Cherokee citizen.

Supplemental Statement.

---oOo---

Upon an inspection of the Cherokee Tribal roll of 1880 in possession of this Commission the name of Tom Bowman is found thereon as a native Cherokee forty-one years old and marked "dead". She is supposed to be the [illegible] Tom [illegible].

It is directed that a copy of this statement be filed with the testimony in the above case.

[illegible]

[illegible] Examiner.

FILED
MAY 23 1902
COMMISSION TO THE FIVE CIVILIZED TRIBES
ACTING CHAIRMAN

10-328

Johnson Lyman

Transferred to Cherokee 9558.

Cher D 329

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I. T., SEPTEMBER 18th, 1900.

IN THE MATTER OF THE APPLICATION OF Lena Goins and children for enrollment as citizens of the Cherokee Nation, and she being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Lena Goins.
Q What is your age? A I am thirty two.
Q What is your Postoffice? A Fairland.
Q What district do you live in? A Delaware.
Q For whom do you apply for enrollment? A Myself and children.
Q How many children? A I have seven.
Q Do you apply for yourself as a Cherokee by blood? A Yes sir.
Q What proportion of Cherokee blood? A About one thirty second.
Q How long have you lived in the Cherokee Nation? A I have lived here ever since I was about ~~seven~~ or ~~eight~~ years old. (6 or 7)
Q What was your name before it was Goins? A Paden.
Q When were you married? A I was married Febuary 19th, 1900.

Q What was your name before it was Paden? A Jones.
Q Was that your maiden name? A Yes sir.
Q And when did you marry your husband Paden? A In 1882.
Q Was he a white man or a Cherokee? A Cherokee.
Q What is his full name? A Benjamin R. Paden.
Q He was a Cherokee, you say? A Yes sir.
Q How long since he died? A March, 1896.
Q He is not on the roll of 1896 then? A No sir.
Q You are on the roll of 1880 as a Jones? A No sir; I was admitted to citizenship in 1883.
Q Have you your certificate of admission? A Mrs Hampton has it: Mr Hampton's wife is my mother.
Q Your name in 1883 would be Lena Paden? A I was married the 31st of December, the last day of 1883.
Q Is this certificate you speak of, that admits Jack Jones and others, the one that you claim to be in? A Yes sir.
Q If you are in this, you should be in as Lula Paden, should you not? A 1883, September 27th, I was married just a short time after we was admitted.
Q You were married in 1882, you stated? A No sir; 1883; the last day of the year.
Q Then you would be Lena Jones in this Certificate? A Yes sir.
Q I do not find any Lena Jones? A Is not Orlena Jones there.

Applicant's ~~father~~ step, being called and sworn, testified as follows:
Q Mrs. Hampton, in making your application, you applied for your wife, whose name was Susan Jones, before you married her?
A Yes sir.
Q Do you know the names of her family? A Yes sir.
Q Her former husband's name was Jack Jones? A Yes sir.
Q Did she have a daughter named Sarah J.? A Yes sir.
Q And a daughter named Christina? A Yes sir.
Q And ~~son~~ son, named Albert C.? A Yes sir.
Q And how about a son named Allen P.: Do you know this applicant here, Lena Goins? A Yes sir.
Q Is she the daughter of your wife? A Yes sir.
Q What do you understand to be her full name; given name?
A They always called her Lena.
Q Any middle name? A I do not know.
Q Is her mother here? A Yes sir.

Applicant's mother called and sworn, testified as follows:
Q What is your full name? A Mary S. Hampton.
Q Are you the mother of this lady here, Mrs. Goins? A Yes sir.
Q What is her full name? A Orlena.
Q Any middle name? A Orlena Parthenia: Her "pa" named her.
Q That "P" stands for what? A Parthenia.
Q Did you have a son named Allen? A No sir.
Q When you were admitted in 1883, you did not have a son, Ely then,

did you, living with you? A No sir, but I have no son, named Allen.
Q Was this daughter with you at the time you were admitted?
A No sir; she had just married a short time before: She was my daughter of course: She was married just a short time before we were admitted; Maybe that might be the way she was put on the roll: I think she was on there; I never looked at it.
Q What year was she married in? A In about 1883, as well as I remember.
Q In December, 1882? A Yes sir; she was married in December.
Q Are you sure it was not December, 1882? A I do not remember just exactly, but it seems to me it was in 1883; I can not remember back very long.

Applicant recalled:
The applicant presents a duly authenticated certificate of admission to citizenship, showing that on the 27th day of September 1883, certain persons were admitted, and among them appears the name of Allen P. Jones, which she claims is intended as her name at that time.

Mr. Hampton, recalled:
Q Your step daughter here; her first husband's name was Paden?
A Yes sir.
Q And her present husband is Heins? A Yes sir.

Applicant recalled:
Q Your present husband is a white man, is he? A Yes sir.
Q And you make no application for him because you were married too late? A Yes sir.
Q Give me the names of your children? A Taylor J. Paden.
Q How old is that child? A He is sixteen years old.
Q Now the next child? A William R. Paden.
Q How old is that child? A He is fourteen.
Q The next child? A Maudie J. Paden.
Q How old is that child? A Twelve.
Q The next child? A Russell R. Paden.
Q How old is that child? A Ten.
Q The next child? A Kittie Paden.
Q And middle name? A No sir.
Q Just Kittie Paden? A Yes sir.
Q How old is she? A She is eight.
Q The next child? A Riley R. Paden.
Q How old is he? A He is six.
Q Your next child? A Benjamin R. Paden.
Q How old is that child? A Three.
Q That is all? A Yes sir.
Q When did your husband, Paden, die? A He died in '96.
Q These children are all living now, are they? A Yes sir.
Q Have you lived in the Cherokee Nation ever since you were admitted in 1883? A Yes sir.

(1896 Roll, Page 515, #2353, Leana Paden, Delaware District)
(1896 Roll, Page 515, #2355, Taylor J. Paden, Delaware District)
(1896 Roll, Page 515, #2356, Willie R. Paden, Delaware District)
(1896 Roll, Page 515, #2357, Maude R. Paden, Delaware)
(1896 Roll, Page 515, #2358, Russel J. Paden, Delaware)
(1896 Roll, Page 515, #2359, Kitty Paden, Delaware)
(1896 Roll, Page 515, #2360, Riley B. Paden, Delaware)
(1880 Roll, Page 298, #1963, Ben J. Paden, Delaware)

Q How old was your husband when he died? A He was thirty six years old.
Q What was his father's name? A I do not know.
Q What was his mother's name? A I do not know: His mother and father died time of the War.
Q Do you know any of his family? A Yes sir; I know Jim Paden.
Q Do you know any of his brothers and sisters? He has only one brother, Jim Paden.

Q You are sure your husband's middle name was "H"? A Yes sir, His name was Benny H. Paden.
Q He is not on the roll of 1896? A No sir.

(1894 Roll, Page 442, #2273, Benj. Paden, Delaware District)
(1896 Roll, Page 516, #2393, Bennie Paden, Delaware District)

Q Have you some one here who knew your husband, Paden, when he was living? A No sir.

The applicant applies for the enrollment of herself and seven children. And her seven children, as enumerated in the testimony, are all identified on the roll of 1896, with her, and all of them are identified as the children of her former husband, Benjamin H. Paden. That husband, now deceased, is identified on the rolls of 1880 and 1894, as a Native Cherokee.

The applicants marriage to him in 1883 is established by her own and her mothers testimony, and she is identified with that husband on the roll of 1896. These seven children will now be listed for enrollment as Cherokees by blood. They are all living at this time.

The applicant claims to have been admitted in 1883, as set forth in the testimony. There is a clerical error in the certificate of admission. It appears quite conclusive that she was a member of the family, put down as "Allen", there being no child of that name in the family, and her name being very easily corrupted into that form, and she being the only one that could supply that place, but as this involves passing upon a clerical error in an official document of the Cherokee Nation, I prefer that the possibilities be weighed and passed upon by the full Commission, and therefore, I defer judgment at this time, and will have her application listed for consideration in this particular by the full Commission.

The applicant has lived in the Cherokee Nation ever since her admission, and her change of name is established by personal testimony as to her marriage. She is identified on the roll of 1896.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me
this 19th day of September, 1900.

COMMISSIONER.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October , 18, 1901.

Supplemental testimony in the matter of the application of LENA GOINS CHEROKEE D-card 2528.

Mary S. Hampton, being first duly sworn by Com'r T. B. Needles, testified as follows:

Q What is your name? A Mary S. Hampton.
Q What was your maiden name? A Carpenter.
Q Who were you first married to? A Jack Jones.
Q Did you have any children by Jack Jones? A Yes sir.
Q What was your oldest child's name? A Lena Goins.
Q She married a man named Goins? A Yes sir.
Q What was the next child's name that you had? A New living?
Q Yes? A Sarah Jones, Sarah Jane.
Q The next one? A Christine
Q What was the name of the next one? A Albert.
Q Did you ever have a child named Allen P. Jones? A No sir.
Q You were admitted to citizenship by the Cherokee authorities on the 27th of September 1883, were you? A Yes sir.
Q Was your family admitted at that time? A Yes sir.
Q I find that in the certificate of admission that you have presented, and mentioned as your living children at that time, one Allen P. Jones? A Yes sir you will find it that way.
Q Is that Allen P Jones meant for Lena? A Yes sir.
Q Did she have a middle name? A Yes sir.
Q What was it? A Parthena.
Q You are satisfied and swear positively that the Allen P. Jones in this certificate was intended for Lena P. Jones? A Yes sir.
Q You never had a child named Allen P. Jones? A No sir never did.
Q Was her name originally Lena or Arlena? A Her name was Arlena Parthena Jones, but she signs it now for short Lena, her first name though is by rights Arlena.

* * *

Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full, all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein

Chas von Weise

Subscribed and sworn to before me this the 18th of October, 1901.

T. B. Needles

Commissioner.

D. 229.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1903.

In the matter of the application of Lena Geins for the enrollment of herself and child as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 6, 1902, that her case would be taken up for final consideration by the Commission on the 25th day of February, 1903, and that she could on said day appear before the Commission either in person or by attorney and introduce any testimony affecting her application. Receipt has been acknowledged of the Commission's letter, the applicant called three times and fails to respond. The case is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 1 1902

ACTING CHAIRMAN.

Cherokee D 328

H. A. L.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Lena Goins for the enrollment of herself and seven minor children as citizens by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 18, 1900, the applicant, Lena Goins, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and seven minor children, Tayler J., William R., Maud J., Russell R., Kittie, Riley R., and Benjamin R. Paden, as citizens by blood of the Cherokee Nation. Thereafter, on October 18, 1901, at Vinita, Indian Territory, further evidencein the matter of this application was heard and on February 25, 1902, at Muskogee, Indian Territory, the case was ordered closed and reported to the Commission for final decision. The seven children of the applicant, Lena Goins, and her former husband, Benjamin R. Paden, who died March 1896, are all listed for enrollment on Cherokee Roll Card Field No.2918, and are not embraced in this decision or considered at this time.

It appears from the evidence in this case that the applicant, Lena Goins, was admitted to all the rights and privileges of Cherokee Citizenship on the 27th day of September 1883, by the Commission on Citizenship of the Cherokee Nation, her name appearing in the certificate of admission as "Allen P. Jones," which name was written by some mistake instead of her correct name at the time of her admission, Orlena P. Jones.

The applicant, Lena Goins, is identified on the Cherokee

Census roll of 1896, her name appearing on said roll as "Leona Paden." She was married to her present husband, John D. Geins, February 19, 1900, and by that marriage a female child, Okley Geins, by name, was born on December 16, 1900, subsequent to the date of this application, and proper proof of her birth has been furnished the Commission. The applicant, Lena Geins, has lived in the Cherokee Nation ever since her admission in 1885.

The authority of the Commission herein is defined in Paragraph 1, Sec. 21, of the Act of Congress, June 28, 1898.(30 Stats., 495.)

It is therefore the opinion of this Commission that Lena Geins and Okley Geins are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this JUN 9 - 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cher. D-339.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of Lena Geins et al for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the persons above named as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-339.

CHEROKEE D 329

Lena Goms et al

Transferred to Cherokee 9559.

Cher D 330

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 18, 1900.

In the matter of the application of Martha Ellen Johnson for the enrollment of herself and husband as citizens of the Cherokee Nation; said Johnson being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please? A Martha Ellen Johnson.
Q What is your age? A 26.
Q What is your post office? A Miles.
Q In what district do you live? A Cooweescoowee.
Q Who is it you wish to have put on the roll? Myself and husband.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q What proportion of Cherokee blood do you claim? A About a quarter.
Q What was your name before it was Johnson? A Deens.
Q When were you married? A 1889.
Q Have you a certificate of marriage? A Yes, sir.
Q You married in 1889? A Yes, sir.
Q You have not your marriage license and certificate? A No, sir, I sent the license to Tahlequah and never got it back.
Q You are on the roll of 1880 are you? A Yes, sir.
Q What district were you from? A Delaware.
Q What district were you in in 1896? A Delaware.
Q What is the name of your father? A James H. Deens.
Q Cherokee or white ? A Cherokee.
Q Dead or alive? A Dead; been dead 25 years.
Q Your mother's name please? A Eliza J.
Q Cherokee? A Yes, sir.
Q Dead or alive? A Dead.
Q How long since? A Eight years.

1880 enrollment; page 24[illegible], #744, Martha Dean, Delaware.
1896 enrollment; page 199, #2601, Martha Johnson, Cooweescoowee.

Q You say your husband's name is Jesse H. Johnson? A Yes, sir.
Q White man or Cherokee ? A Cherokee.
Q This he with you here is it? A Yes, sir.

Jesse H. Johnson, being sworn, testified as follows:

Q That is your name is it, Jesse H. Johnson? A Yes, sir.
Q How old are you? A 32.
Q Have you a license and certificate of your marriage to this woman? A Just certificate.
Q That paper you showed awhil ago? A Yes, sir.
Well that is not legal evidence.
Q You were married in 1889, were you? A Yes, sir.
Q You and your wife lived together ever since your marriage? A Yes, sir.
Lived inthe Cherokee Nation all the time? A Yes, sir.
Q What is the name of your father? A James Johnson.
Q Dead or alive? A Alive.
Q The name of your mother? A Minerva.
Q Dead or alive? A Alive.

1896 enrollment; page 312, #65[illegible], Jess Johnson, Cooweescoowee.

Martha Ellen Johnson---2.

Com'r Breckinridge:--The applicant applies for the enrollment of herself and her husband: He appears with her in the application. She is identified on the rolls of 1880 and 1896 as a native Cherokee Her change of name is established by her own and her husband's testimony as regards their marriage. She will be listed now as a Cherokee by blood.

As regards her husband: He is identified with his wife on the roll of 1896. He and she testified that they were married in 1889. They are required to produce the original or official copy of their Cherokee marriage license and certificate. In the absence of this he wil be placed upon a doubtful card. They both state that they have lived together as husband and wife ever since their marriage.

---oooOOOooo---

J.O.Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 20thday of September, 1900.

C R Breckinridge
Com'r

D 330

"K"

D 330

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 25, 1902.

In the matter of the application of Jesse H. Johnson, for the enrollment of himself as a citizen of the Cherokee Nation:

Appearances:
Applicant present in person;
W. W. Hastings, for the Cherokee Nation.

JESSE H. JOHNSON, being sworn and examined, testified as follows:

Q What is your name ? A Jesse H. Johnson.
Q How old are you ? A I was 34 last March.
Q Where do you live ? A Out here by Centralia; about two miles east of Centralia.
Q Is that your post office address ? A Yes sir.
Q Is there any further statement you desire to make to the Commission relative to your application for enrollment ?
A I aint got nothing only I presented my license at Vinita; that's all I have and all I got.
Q Do you submit the case to the Commission for final consideration?
A Yes sir.

The applicant and representative of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed, and is reported to the Commission for final decision based upon the evidence now on file.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause; and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell

Subscribed and sworn to before me this February 25, 1902.

Commissioner.

Cherokee D 350

DEPARTMENT OF THE INTERIOR, N.A.L.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Ellen Johnson for the enrollment of herself as a citizen by blood of the Cherokee Nation and for the enrollment of her husband, Jesse H. Johnson, as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 18, 1900, the applicant, Martha Ellen Johnson, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself as a citizen by blood of the Cherokee Nation and for the enrollment of her husband, Jesse H. Johnson, as a citizen by intermarriage of the Cherokee Nation. Thereafter, on February 25, 1902, at Muskogee, Indian Territory, further evidence in the matter of this application was heard and the case was submitted to the Commission for final consideration and ordered closed. The applicant, Martha Ellen Johnson, is listed for enrollment on Cherokee Roll Card Field No. 2936, and she is not embraced in this decision nor considered at this time.

The name of Martha Ellen Johnson, appears on the Cherokee authenticated tribal roll of 1880 as "Martha Dean", her maiden name. On November 24, 1889 she married, according to the custom and laws of the Cherokee Nation, Jesse Johnson. Both Martha Ellen Johnson and her husband, Jesse H. Johnson, are identified on the Cherokee Census roll of 1896, their names there appearing as "Martha Johnson" and "Jess Johnson", respectively.

Martha Ellen Johnson and her husband, Jesse H. Johnson, have lived together in the Cherokee Nation continuously since their marriage.

The authority of the Commission herein is defined in Paragraph 1, Sec. 21, of the Act of Congress, June 28, 1898. (30 Stats., 495.)

It is therefore the opinion of this Commission that Jesse H. Johnson is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for his enrollment as such should be granted and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this MAY 27 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes rendered May 27th, in the matter of the application of Martha Ellen Johnson for the enrollment of Jesse H. Johnson as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of said person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. D-330.

Jesse H. Johnson

Transferred to Cherokee 9560.

Cher D 331

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., September 13, 1906.

In the matter of the application of [illegible], Delaware for the enrollment of his ~~xxxx~~ ward, Ethel Lisle Thompson as a citizen; being sworn and examined by Commissioner Breckinridge testified as follows:

Q. [illegible] A. [illegible] Delaware.
Q. [illegible] A. [illegible] Forty-three.
Q. [illegible] A. [illegible], Indian.
Q. [illegible]
Q. Who is it you apply for to have put on the roll? A. Ethel Lisle Thompson.
Q. How old is this [illegible]? A. She is eighteen or nineteen years old.
Q. [illegible] A. Yes sir.
Q. [illegible] A. [illegible], I [illegible]
Q. Is your ward living at the present time? A. Yes sir.
Q. Is she on the roll of 1896? A. Yes sir.
Q. Is she in court? A. Yes sir.
Q. What was the name of her father? A. [illegible] Thompson.
Q. [illegible] or a white woman? A. White woman.
Q. [illegible] A. Not long, [illegible] years, one or two, [illegible].
Q. Was she on the roll of 1880, [illegible]? A. I don't know whether she is or not.
Q. [illegible] A. Cherokee District.
Q. In what District was [illegible]? A. Delaware.
Q. [illegible] A. [illegible] Thompson
Q. [illegible] A. [illegible].
Q. [illegible] A. I [illegible] 1896, or [illegible].
Q. [illegible]
A. [illegible].
Q. [illegible] A. [illegible]
Q. [illegible] A. [illegible]
[illegible] Arkansas; [illegible]
Q. [illegible] A. [illegible]
[illegible] child [illegible] Delaware.Dist.

Chair Breckinridge: The applicant applies for the enrollment of an orphan, a ward of his, whose name is Ethel Lisle Thompson; she is identified on the roll of 1896; neither her father nor mother can be identified on the roll of 1880; this child was born in the

State of Ar[illegible] [illegible] in the [illegible] the greater part of [illegible] life; she is living [illegible] at this time; her father died in 1[illegible]34; her mother died [illegible] two years ago, and [illegible] made Ar[illegible] [illegible], under the circumstances the child [illegible] is exceedingly doubtful, [illegible] [illegible] upon a doubtful card; [illegible] would [illegible] to the applicant at his post-office address, [illegible] forwarded to the Secretary of the Interior for his final approval.

[illegible], being first duly sworn states that [illegible] to the application to [illegible] child [illegible] the statements and representations in this case and that the foregoing is a true and complete transcript of the stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 20 day of [illegible] 1922.

C M Green
Commissioner.

2939

D 331

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 29 1900

ACTING CHAIRMAN

D. 331.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Ethel L. Thompson for the enrollment of herself as a citizen of the Cherokee Nation.

The applicant was notified through her guardian, Claude L. Washburn, by registered letter February 8, 1902, that her case would be taken up for final consideration by the Commission on the 25th day of February, 1902, and that she could on said day appear and introduce any further testimony affecting her application. Receipt has been acknowledged of the Commission's letter, the applicant called three times and fails to respond. The case is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 27 1902

ACTING CHAIRMAN.

Cherokee B 321

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Glenda L. Washbourne for the enrollment of his ward Ethel Lisle Thompson, as a citizen by blood of the Cherokee Nation.

D E C I S I O N .

The record in this case shows that on September 18, 1900, Glenda L. Washbourne appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of his ward Ethel Lisle Thompson, as a citizen by blood of the Cherokee Nation.

The evidence in this case shows that Ethel Lisle Thompson, at the time of this application was "18 or 19 years old." She was born in the State of Arkansas, and has spent a very small portion of her life in the Cherokee Nation. She is identified on the Cherokee Census Roll of 1896. It further appears that her father, although it is claimed he was a citizen by blood of the Cherokee Nation, is not identified on the Cherokee Authenticated Tribal Roll of 1880, neither is there any evidence that he was ever admitted to citizenship. The printed roll of admitted and re-admitted persons does not disclose his name. The applicant's mother was a white woman. It also appears that her father and mother "spent their married life in Arkansas." At the time of this application Ethel Lisle Thompson was a resident of the State of Arkansas. It appears from the evidence that the applicant had not, prior to June 28, 1896, removed to and settled in good faith within Indian Territory.

The Act of Congress, June 28, 1898. (30 Stats., 495), provides:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship;----------."

It is the opinion of this Commission that Ethel Lisle Thompson is not lawfully entitled to be enrolled as a citizen by blood of the Cherokee Tribe of Indians in Indian Territory, and that the application forher enrollment as such should be denied, and it is therefore so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Acting Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). J. G. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this NOV 12 1902

AAD

Cherokee R-780

Department of the Interior,
Commission to the Five Civilized Tribes,
Cherokee Land Office,
Tahlequah, I.T., May 14, 1904.

In the matter of the application for the enrollment of ETHEL L. THOMPSON as a citizen by blood of the Cherokee Nation.

SUPPLEMENTAL TESTIMONY.

Appearances:
William Henry White on behalf of applicant;
W. W. Hastings on behalf of the Cherokee Nation.

CLAUDE L. WASHBOURNE, being duly sworn and examined, testified as follows:

Examined by William Henry White:

Q What is your full name? A Claude L. Washbourne.
Q And you live at Southwest City? A Yes sir.
Q You are the guardian for Ethel Lisle Thompson? A Yes sir.
Q You knew her father, did you? A Yes sir.
Q When did he come to the Cherokee Nation? A In 1867 I think or '8.
Q Where was he married? A He was married to Ethel's mother in Arkansas I think; I am not positive about that.
Q They then lived in the Cherokee Nation? A Yes sir, they moved to the Cherokee Nation after they were married; he had lived here himself. Ethel's mother was his second wife; he lived out there near Coodys Bluff, Cooweseecowee District, on Lightning Creek.
Q What was his name? A Herbert W. Thompson.
Q After the father and mother of Ethel removed to the Cherokee Nation what, if you know, was the occasion of their going back to Arkansas? A Why, they were expecting the arrival of my ward, Ethel Thompson, so thay moved back there.
Q Where was Ethel born? A In Arkansas.
Q Did the mother die there? A Yes sir.
Q And the father is dead too? A Yes sir.
Q When the father died, did he own any property on the public domain? In the Cherokee Nation? A Yes sir, he owned a place out there on Lightning Creek in the Cherokee Nation.
Q Of what did the place consist, the improvements? A I don't know; I never saw the place; I only know that he lived out there for 2 or 3 years, after his first marriage.
Q After the death of her parents, who took care of Ethel? A A sister of her mother.
Q Did you, as guardian of Ethel, hold any property in the Cherokee Nation? A Yes sir, I owned a place for her.
Q Where was it? A It was in Delaware District, out southwest of Vinita, near Bigcabin Creek.
Q Did you didpose of it? A Yes sir.
Q For what purpose? A Why, I disposed of it ----
Q What did you do with the money? A I sent her the money at the request of her aunt; she had been after me several times to sell it; said she wanted the money worse than she did the farm; wanted the money to send the child to school.

Q Then the money was used, as I understand it, for the purpose of educating the child? A I suppose so; I sent it to them for that purpose.
Q Did you hold these improvements for her for a considerable time?
A Yes sir, about 5 or 6 years I guess; I bought the place I think either in '88 or '89 and I sold it in '95; I took a portion of the strip money after it was paid a nd used it on this place and that was the reason they wanted the money out of it.
Q What was the disposition of these relatives of hers as to whether or not they were willing or otherwise to her returning to the nation? A They were unwilling and always have been.
Q She is married now, is she? A Yes.
Q What is her present name? A Nolen.
Q Her husband is a citizen of Arkansas, isn't he? A Yes sir.

Examined by W. W. Hastings:

Q When did she marry? A I think about 2 years ago, as near as I can remember.
Q You made application for her originally before the Commission, did you? A Yes.
Q On September 18, 1900? A Yes sir.
Q You gave her age then as 19? A Yes.
Q Then you had ceased to be her guardian for some time prior to that time, because she was of age?

White: I will have to object to the form of that question.
Commission: Objection noted.

A I would simply say this, that I had none of her property in my hands.
Q Well you had not since you sold her place, directly after the strip payment? A No sir.
Q Well, about when, Mr. Washbourne? A As near as I can remember I think that I sold the place the next summer.
Q In '95? A Yes sir.
Q And you sent her or her aunt the proceeds? A Yes.
Q Soon after the place was sold? A Yes sir, immediately.
Q Since that time you have had nothing to do as guardian either of her person or effects? A Nothing outside of making this application for her enrollment.
Q Since 1895 has she continuously resided in Arkansas? A I think she was here once afterwards.
Q On a visit? A Yes sir.
Q Well, her residence has been Arkansas? A Yes.
Q I believe you stated ~~xxx~~ awhile ago that she was married about 2 years ago? A Yes sir, I think so.
Q At least it was after this application you made for her?
A Yes sir, she was single at that time.
Q Her husband, of course, is a citizen and resident of the State of Arkansas? A Yes.
Q Her mother never did return to the Cherokee Nation since before Ethel was born? A I don't think she ever did.
Q Neither did her father? A Yes, her father came back.
Q On a business trip? A He came back and went out to his place on Lightning Creek and stayed a short time.
Q And then went back to Arkansas? A Then went back to Arkansas.
Q According to your statement Ethel must have been born in about the year '80 or '81? A Yes sir.
Q Then her parents must have gone to Arkansas about that time?
A At about that time, yes sir. I am working a great deal on memory about this matter.

Q Your memory may not serve you correctly about all these dates?
A No.
Q How long did Ethel's father retain this place on Lightning Creek?
A He never did dispose of it.
Q It just reverted to public domain? A After his death I guess it went back to public domain.
Q He died about '84? A Yes sir, somewhere along there.
Q Did Ethel's mother ever remarry after her father's death?
A I think she did.
Q When did you say she died, Ethel's mother? A I think I said she had not been dead but a few years; in givin g that testimony I think I said just a few years before ~~my~~ I made this application.
Q About how long ago, to your best judgment? A My best judgment would be that she died about 10 years ago.
Q And she died in Arkansas? A Died in Arkansas, yes sir.
Q At that time Ethel was living with her? A Yes sir.
Q And after that Ethel continued to live there up to the present time? A Yes sir, made her home with her aunt.
Q Since you sold her place in '95, she has had no property that you know of in the Cherokee Nation? A None that I know of.
Q How did Ethel acquire this place at Bigcabin? A I bought it for her.
Q You bought it about '89 you say? A Yes sir.
Q Just a claim on the public domain? A Yes sir.
Q How much did you give for it? A $45.00.
Q How much did you sell it for? A I sold it for $475.00.
Q Did you just have it improved with the proceeds from it?
A Yes sir; I spent about $460.00 of her strip money in building a house and digging a well, and fences, etc.
Q Do you know whether Ethel had a guardian in Arkansas? A Never had that I know of.
Q Did you send this money to Ethel direct or to her aunt? A don't remember; I believe I sent it to her aunt.

----o----o----o----

Mabel F. Maxwell, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she correctly recorded the supplemental testimony and proceedings in this case, and that the above and foregoing is an accurate and complete transcript of her stenographic notes thereof.

Mabel F. Maxwell

Subscribed and sworn to before me
this 1st day of June, 1904.

Simon R. Washington
Notary Public.

MFM

GAME

Cherokee R-780.

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

In the matter of the application for the enrollment of Ethel Lisle Thompson as a citizen by blood of the Cherokee Nation.

D E C I S I O N .

The record herein shows that on September 18, 1900, Claude L. Washbourne appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of Ethel Lisle Thompson as a citizen by blood of the Cherokee Nation.

November 12, 1902, this Commission rendered a decision denying applicant the right to enrollment, said decision being affirmed by the Department. Departmental letter of March 23, 1904, (I.T.D. 7162-03), rescinded former decision and remanded said case for readjudication in accordance with present rulings. Supplemental testimony in the matter of said application was taken at Tahlequah, Indian Territory, May 14, 1904.

The evidence herein shows that the applicant is the child of one Herbert W. Thompson, a Cherokee by blood, and Sarah Thompson, a non-citizen, who prior to 1881, resided in the Cherokee Nation.

The evidence further shows that the applicant was born in Arkansas and has resided therein all her life; that she is now twenty-three or twenty-four years old, and has never established a legal residence in the Indian Territory. Neither the said Herbert W. Thompson nor the applicant, Ethel Lisle Thompson, can be identified on the authenticated Cherokee tribal roll of 1880.

Paragraph nine, section twenty-one of the Act below noted provides:

"No person shall be enrolled who has not heretofore removed to, and in good faith settled in the Nation in which he claims citizenship."

It is, therefore, the opinion of this Commission that the application for the enrollment of Ethel Lisle Thompson as a citizen by blood of the Cherokee Nation, should be denied, under the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED), Tams Bixby.

Chairman.

(SIGNED), T. B. Needles.

Commissioner.

(SIGNED), J. R. Breckinridge.

Commissioner.

Muskogee, Indian Territory,

this JUL 23 1906

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re)
application of C. L. Washbourne,)
for the enrollment of his ward,)
Ethel Lisle Thompson, as a citi-)
zen of the Cherokee Nation.)

----oOo----

MOTION FOR REVIEW.

Now comes the applicant by her attorneys and moves that the decision of the Department heretofore rendered in this cause be set aside anda rehearing granted and had for the reasons set forth in the brief hereto attached.

Henry G. Kimball
Hugh Reed White
Attorneys for Applicant.

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re)
Application of C. L. Washbourne :
for the enrollment of his ward,)
Ethel Lisle Thompson. :

----oOo----

BRIEF ON BEHALF OF APPLICANTS.

The record in this case shows that the applicant was only 18 or 19 years of age when the testimony was taken in her cause. Her father died when she was two or three years of age, and her mother died when this child was 16 years of age. It seems that, on the death of her father, her mother, who was a white woman, went to her people in Arkansas, and the child has lived most of the time with them. Nevertheless, the child actually lived in the Cherokee Nation part of the time. She is a Cherokee by blood and her name is on the 1896 census roll. We attached hereto a letter of the Commission dated January 12, 1904, showing that her name also appears upon the 1894 strip payment roll.

Ora L. Camp was admitted to citizenship by the Cherokee authorities; she did not remove to the Cherokee Nation before June 28, 1898; her name appeared upon the 1896 census roll, and she was enrolled by the Department because she was still a minor when the Curtis law was passed. This applicant was a minor when the Curtis law was passed; in fact, she was a minor when the testimony was taken in her case. She is on the 1896 census roll and on the 1894 strip payment roll. If paragraph 9 of the Curtis law does not apply to Ora L. Camp, it does not apply to Ethel Lisle Thompson. The Guss Caldwell, Sarah Setzer and Martha Hill

cases repudiate the idea that a formal act of admission to citizenship is indispensible. She being a Cherokee by blood and her name appearing upon the 1894 roll, she was a citizen unless it be further contended that she must have removed to the Nation. It is nowhere required that she removed to the Nation, except by paragraph 9 of the Curtis Act. Ora L. Camp was a Cherokee by blood and on the 1896 roll and there is no express provision of law exempting her from removal. Paragraph 9 spoke to her as plainly as it can speak to Ethel Lisle Thompson. The mere provision of the Cherokee Act of December 4, 1894, that its removal requirement does not apply to minors and orphans, puts her in no better position than this applicant. The effect of the provision is merely that the act does not apply to Ora L. Camp and does not affect her rights one way or the other; the act does not apply to Ethel Lisle Thompson and does not affect her rights one way or the other.

The spirit of the decision in the Camp case is that the Act of Congress is to be construed in the light of the Indian legislation upon the subject, where that is possible. It recognizes that the Cherokee laws were lenient, as are all humane laws, upon the helpless ones and that a construction of the law is to be adopted which will favor rather than oppress them.

The Act of December 4, 1894, it was pointed out, excepted minors and orphans, thus showing the spirit of the law. As an aid in construction of the Act of June 28, 1898, it was important in that case and is important in this case. All laws are to be construed so as not to lead to an absurd or ridiculous consequence, and so as not to work injustice or oppression.

Lau Ow Bew vs. U. S., 144 U. S., 47.

To apply the provisions of paragraph 9 to babies would require one born outside of the Cherokee Nation to leave the protection of its natural guardians and remove to the Cherokee Nation and there make its home, or else forfeit its birth right. The

civilization of this age repudiates any such result. One's sense of justice is shocked at any such result. It is not consistent with common sense and in the light of the adjudications by the Department on similar questions, we confidently ask that this applicant be enrolled without the necessity of referring the cause back to the Commission for adjudication. The facts are clear and undisputed and a reference back to the Commission will deprive the applicant of her rights for many months without, in our opinion, any just reason therefor.

In addition to the above, we submit that there is a sufficient showing of actual residence in the Nation to make a literal compliance with paragraph 9.

Respectfully submitted,

Henry G. Kimball

McKinney White

Attorneys for Applicant.

(C-O-P-Y)

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tahlequah, Indian Territory, January 12, 1904.

Kimball & White,
Columbian Building,
Washington, D. C.

Gentlemen:

The Commission is in receipt of your letter of January 5, asking to be advised upon what rolls of the Cherokee Nation the name of Ethel L. Thompson appears.

In reply, you are advised that in addition to the appearance of the name of Ethel L. Thompson upon the 1896 census roll of citizens of the Cherokee Nation, there appears upon the strip payment roll of the Cherokee Nation for the year 1894, the name of one Ethel Thompson, at page 489, No. 3141.

Respectfully,
(Signed) TAMS BIXBY,
Chairman.

IN THE DEPARTMENT OF THE INTERIOR.

----oOo----

In re)
Application of C. L. Washbourne)
for the enrollment of his ward,)
Ethel Lisle Thompson, as a citi-:
zen of the Cherokee Nation.)

----oOo----

BRIEF FOR APPLICANT

The testimony in this case shows that the father of this applicant was Herbert W. Thompson, a Cherokee by blood and a citizen of the Cherokee Nation. He was living in the Cherokee Nation with his wife, the mother of applicant, at the time of the birth of the applicant, but in anticipation of that event he took her mother to her mother's people in Arkansas, where the applicant was born and lived there until his death. The point essential in this testimony so far is that the father of this applicant was at the time of his death a citizen of the Cherokee Nation.

After the death of the father the mother resided with her parents in Arkansas, the applicant, of course, being an infant at that time, residing with her mother.

Mr. Washbourne, the guardian of applicant, held for her certain improvements in the Nation for a number of years, used her share of the strip money for purchasing improvements and continued to own improvements for her until 1895.

The reason for applicant's not removing to the Nation is that her relatives with whom she lived before and after her mother's death were always unwilling that she should return.

While still a minor she was married to Mr. Nolen, who is a citizen of the State of Arkansas.

She has always been recognized as a Cherokee citizen by

blood and her name appears upon the tribal roll of 1894.

There can be no doubt that she was a citizen of the Cherokee Nation and that her right to such citizenship continued so long as she was a minor. This is clearly held in the Ora L. Camp case. We have to consider, then, solely the question as to whether or not she has, since she became of age, done some act which deprives her of her right to citizenship.

Under the rule laid down by the Assistant Attorney-General in the Yeargain case, four things must concur before a citizen of the Cherokee Nation loses his right, namely:

1. Removal from the Nation.

2. Removal of effects.

3. Become a citizen of another government.

4. Do all of the above with the intent to abandon his Cherokee citizenship.

"Applying such tests to the facts in the present case it is clear that the applicant has not lost her Cherokee nationality." She may have done the first and as to the second it is conceded that her guardian disposed of the same, but as to the third and fourth it is clear she did neither. The case of Elk vs. Wilkins, 112 U. S., 94, would seem to decide that she could not of her own accord become a citizen of the State of Arkansas except under a provision of some United States statute. This question is discussed in the very able opinion of the Acting Commissioner of Indian Affairs dated July 19, 1904, (Land 18217-1904) in relation to the application of Clara A. Ward, to which we invite special attention.

The only statutes relating to this case are the Acts of February, 1887, (24 Stats., 390), which granted citizenship to Indians who take up their residence separate and apart from any tribe of Indians, but this act especially provides that this citizenship is given "without in any manner impairing or otherwise affecting the right of any Indian to tribal or other property." This act was amended March 3, 1901, (31 Stats., 1447), so

as to include "all Indians in Indian Territory," but tribal rights are not affected by this amendment.

The second and only other Act is that of August 9, 1888, (25 Stats., 392), granting citizenship to Indian women who marry United States citizens, and it expressly declares that nothing in that act "shall in any way affect the right or title of such married women to any tribal property or any interest therein."

The First Assistant Attorney rendered an opinion which was approved July 8, 1903, by the Secretary in regard to the section of the Constitution of the Cherokee Nation under discussion in this and the Yeargain case, in which it is said:

> The premise that the legislative power of Congress ~~supreme~~ over the affairs of Indian tribes and nations is plenary to repeal or change their laws and constitutions is so well established as to be beyond further controversy.

If, then, there is any variance between the acts of Congress above enumerated and the Cherokee Constitution, the acts of Congress are to prevail, and under them this applicant could not become a citizen of the United States, either by taking up her residence separate and apart from her Indian tribe and becoming a citizen of the United States, or by marrying a citizen of the United States so as to "in any way affect the right x x x to tribal property or any interest therein."

We submit therefore that under the Cherokee Constitution a citizen must become a citizen of another government before losing his tribal rights, and as the acts of Congress say that a Cherokee becoming a citizen of the United States cannot lose his tribal rights of property, that since the act of Congress prevails the Cherokee provision must be limited to other Indian governments

On the subject of intent, which is the fourth requirement under the Yeargain decision, it will be noted that this applicant has never had an opportunity to act upon her own volition. While she was a minor she was under the control of her mother and her mother's relatives, who had the absolute right and exercised that right, as shown by the testimony, to keep her out of the Cherokee Nation and within the State of Arkansas. Before her

minority had expired she was married and became subject to her husband's will as to the place where she would live. Since the ruling in the Yeargain case requires that she must have abandoned the Cherokee Nation with an active intent to forfeit her rights, the testimony fails to show any such conduct upon her part and for this reason her rights are preserved.

It is, therefore, respectfully submitted that under the third and fourth requirements of the Yeargain decision, this applicant is entitled to enrollment as a citizen of the Cherokee Nation.

Respectfully submitted,

Harry T. Kimbrell

Guy Henry White

Attorneys for Applicant.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 331.

Muskogee, Indian Territory, November 14, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 12, 1902, rejecting the application of Claude L. Washbourne for the enrollment of Ethel L. Thompson as a citizen by blood of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enclosure H. No. 18.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 331.

Muskogee, Indian Territory, January 6, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated November 12, 1902, rejecting the application of Claude L. Washbourne for the enrollment of Ethel L. Thompson as a citizen by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on December 15, 1902.

Respectfully,

Acting Chairman.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

January 22, 1904.

W. W. Hastings, Esq.,

Muscogee, Ind. Ter.

Dear Sir:

Enclosed please find motion for review and brief in support thereof in re application of C. L. Washbourne for the enrollment of his ward, Ethel Lisle Thompson, as a citizen of the Cherokee Nation.

Yours very truly,

[illegible] White

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

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ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES

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

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REFER IN REPLY TO THE FOLLOWING

Cherokee R-780

Tahlequah, Indian Territory, April 9, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that on March 23, 1904, the Secretary of the Interior rescinded his decision of December 15, 1902, affirming the decision of the Commission of November 12, 1902, rejecting the application of Claude L. Washbourne for the enrollment of Ethel L. Thompson as a citizen by blood of the Cherokee Nation, and remanded the same for the purpose of taking further testimony therein.

You are further advised that Claude L. Washbourne has this day been advised of the Department's action and notified that he would be allowed thirty days from date hereof in which to appear befpre the Cherokee Land Office of this Commission at Tahlequah, I.T. for the purpose of offering such further testimony as he desires tending to prove the right to enrollment of said Ethel L. Thompson, testimony being especially desired showing the continued residence in the CherokeeNation of Ethel L. Thompson and her parents.

Respectfully,

C. R. Breckinridge.

Commissioner in Charge
Cherokee Land Office.

MH

B.C.

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING
Cherokee R-780.

Tahlequah, Indian Territory, April 18, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:-

You are hereby notified that at the request of William Henry White, of Washington, D. C., attorney for Ethel L. Thompson, Cherokee R-780, the hearing of further testimony in that application for enrollment has been continued to May 14, 1904.

Respectfully,

C. R. Breckinridge.

Commissioner in Charge
Cherokee Land Office.

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COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
WM. O. BEALL,
Secretary

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee R-780.

Muskogee, Indian Territory, July 26, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, rejecting the application for the enrollment of Ethel Lisle Thompson as a citizen by blood of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Encl. S-102.

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

September 9, 1904.

W. W. Hastings, Esq.,

Muscogee, Ind. Ter.

Dear Sir:

Enblosed please find carbon copy of brief for applicant in re application of Claude L. Washbourne for the enrollment of his ward, Ethel Lisle Thompson, as a Cherokee citizen.

Yours very truly,

William White

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. breckinridge,
WM. O. BEALL,
Secretary.

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

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REFER IN REPLY TO THE FOLLOWING:
Cherokee R 780

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, October 6, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated July 23, 1904, rejecting the application for the enrollment of Ethel Lisle Thompson as a citizen by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on September 16, 1904.

Respectfully,

Chairman.

IN THE MATTER OF THE APPLICATION OF

Ethel L. Thompson

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 18. 1900
B. Mem. of application - " 18. 1900
C. Notice of final consideration
D. Order closing test. Feb 25/02

See Cherokee Jacket 2939
" " " R 145

Cher D 532

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 18, 1900.

In thematter of the application of John Washington Barger for the enrollment of himself, wife and children as citizens of the Cherokee Nation; said Barger being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your cull name, please? A John Washington Barger.
Q How old are you? A 32.
Q What is your post office? A Fiarland.
Q What is your district? A Delware.
Q Who is it you want to have put on the roll? Myself, wife and children.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q How much Cherokee blood? A One-sixteenth.
Q Your wife a Cherokee by blood? A No, sir.
Q How long have you lived in the Cherokee Nation? A 14 years.
Q Were you admitted to Cherokee citizenship by the Commission on citizenship? A Yes, sir.

Com'r Breckinridge:--The applicant presents what pupports to be a copy of an act passed by the Cherokee House and Senate on November 17, 1886, admitting certain persons to citizenship; among them appears the name of John Barger.
Q Is that your name? A Yes, sir.
Q There is nothing in the document to show that it ever become a law either by signature of the chief of the Nation by being passed over his veto, or by lapse of time from the lack of the signature of the Chief as provided by Cherokee law. The applicant is enjoined to supply the Commission with official evidence of the act having become a law.
Q Have you lived inthe Cherokee Nation ever since you say you were admitted in 1886? A Yes, sir
Q Give me your wife's present name? A Lydia Bell.
Q How old is she? 24.
Q When did you marry her? A 1894.
Q Have you a certificate of marriage? A Yes, sir.

Com'r Breckinridge:--The applicant presents a certificate of his marriage to Lydia A. Summers at Columbus, Kanksas on February 19, 1894. John Stalker, Probate Judge, officiating. This is filed herewith.

Q What were you doing up in Kansas then? A Getting married.
Q You were not living up there? A No, sir.
Q Did you bring her back here? A I went up there after her and brought her back.
Q How give me the names of your children? A Elizabeth.
Q How old? A Six.
Q The next child Mrytle.
Q How old is that child? A Two years old.
Q Both living are they? A Yes, sir.

1896 enrollment; page 114, #481, John Borger, Cooweescoowee/
1896 enrollment; page 295, #96, Lydia Borger, "
1896 enrollment; page 114, #482, Edna Borger, "

John Washington Barger-- 2.

Com'r Breckinridge:--The applicant applies for the enrollment of himself, his wife and two children: He claims to have been admitted to Citizenship by the Cherokee Council in 1886. He doesnot substanciate this claim with satisfactory evidence. He is identified on the roll of 1896. He will be placed at this time on a doubtful card. His wife is shown to have been married to him in 1894. She has lived with him in the Cherokee Nation ever since her marriage She is identified on the roll of 1896, and she will also be placed at this time on a doubtful card to await more conclusive evidence of her husband's admission. The child Elizabeth is identified on the roll of1896, and will be placed upon a doubtful card, and when a proper certificate of the birth of the child Myrtle is filed with the Commission, it also will be placed with its parents upon a doubtful card. It should also be noted that the marriage between the applicant and his wife was in the State of Kansas, but it took place in the years 1894, after and not prior to his alleged admission to Cherokee citizenship.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correcty recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 21st day of September, 1900.

Commissioner.

John N Berger
D 332

D. 522.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of John W. Parker for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February , 1902, that his case would be taken up for final consideration by the Commission on the 25th day of February, 1902, and that he could on said day appear and introduce any further testimony affecting his case. He has been called three times and fails to respond. The case is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Commissioner.

Cherokee D 182.

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of John Washington Barger for the enrollment of himself and his minor daughters Elizabeth and Myrtle C. Barger, as citizens by blood, and for the enrollment of his wife Lydia B. Barger, as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

This record in this case shows that on September 18, 1900, John Washington Barger appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself and his two minor daughters Elizabeth and Myrtle C. Barger, as citizens by blood, and for the enrollment of his wife Lydia B. Barger, as a citizen by intermarriage of the Cherokee Nation.

The evidence in this case shows that among others John Washington Barger was readmitted to citizenship in the Cherokee Nation on the 21st day of November, 1888, by an act of the National Council of the Cherokee Nation. He has resided in the Cherokee Nation continuously since the date of his readmission. He was married, in accordance with the laws of the State of Kansas, on the 19th day of February, 1894, to one Lydia B. Summers. John Washington Barger is identified on the Cherokee Census Roll of 1896 as "John Berger." Lydia B. Barger is identified thereon as "Lydia Berger." [redacted] Barger is also identified thereon as "Edna Berger." Myrtle C. Barger was born subsequent to the making of said roll and is identified by certificate of birth on file with the Commission.

The authority of the Commission herein is defined in Par. 1, Sec. 21, of the Act of Congress, June 28, 1898, (30 Stats., 495).

It is therefore the opinion of this Commission that John Washington Barger and his minor daughters [illegible] and [illegible] C. Barger, are lawfully entitled to be enrolled as citizens by blood, and that his wife Lydia D. Barger, is lawfully entitled to be enrolled as a citizen by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be granted, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
This JUN 9 - 1902

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Enrl. B-232.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of John Washington Barger et al for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the persons above named as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Yours truly,

Acting Chairman.

Encl. B-232.

John W. Barger et al

Transferred to Cherokee 9561.

Cher D 333

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 18, 1900.

In the matter of the application of Lottie Martin for enrollment of herself, husband and three children, as citizens of the Cherokee Nation, said Martin being sworn by Commissioner Needles, testified as follows:

Q What is your name? A Lottie Martin.
Q What is your age? A 38.
Q What is your postoffice address? A Vinita.
Q What district do you live in ? A Coowescoowee.
Q Are you a recognized citizen of the Cherokee Nation by blood? A yes.
Q What degree of blood? A 1/8.
Q For whom do you apply for enrollment? A Myself, husband and three children.
Q What is your father's name? A Joshua Duncan.
Q Is he living? A No sir.
Q What was your mother's name? A Elizabeth Ray.
Q Is she living? A No sir.
Q What is the name of your husband? A John S. Martin.
Q Is he a non-citizen? A yes.
Q When were you married to him? A '98.
Q Have you certificate of marriage? A Yes.
Q His father and mother are non-citizens? A yes.
Q What was your name in '80? A Charlotte Duncan.
Q Is Martin your first husband? A No sir, I have been married twice.
Q What was your former husband,s name? A Rudolph Haegert.
Q When were you maried to him? A '91. ('81?)
Q Is he living? A I don't know, I am not living with him.
Q What are the names of your children? A Rudolph Haegert, 19 years old.
On '96 roll, page 178, number 2283, as Hagert.
Q Next? A Viola Haegert, 16 years old.
On '96 roll, page 178, number 2284, as Hagert.
Q Next? A John S. Martin, Jr., 8 years old.
On '96 roll, page 216, number 3312, as John Martin, jr.
Q Are these children alive and living with you at this time? A Yes.
Q Always lived in the Cherokee Nation? A yes.
Q Always lived in the Territory? A yes.
Applicant on '80 roll, page 248, number 824, as Charlotte C. Duncan.
On '96 roll page 216, number 3311.
Applicant,s husband on '96 roll, page 315, number 688, as John I. S. Martin.

By W. T. Hutchins, Cherokee Attorney :
Q Where was Haegert living when you married him? A Fort Gibson, Cherokee Nation.
Q How long after you married him did you remove from the Cherokee Nation? A We lived here.
Q How long did you live in Nebraska? A We were out about a year.
Q Which of your children was born in Nebraska? A Viola.
Q How long did you live separated from him in Nebraska? A Not quite a year.
Q Did he marry you according to Cherokee laws? A We were married by the justice of the peace at Fort Gibson.
Q Did you ever get a divorce from him? A Yes.
Q In what court? A In the court in Nebraska .

Q You had not been living there but a year? A Yes, we were separated and I got a divorce and came home.
Q You separated from him and got a divorce? A Yes.
Q You swore in that peition that you were a bona fide citizen of the State of Nebraska? A I don't know anything about it.
Q You have never been readmitted to citizenship since you returned from Nebraska? A I don't know; was not out long enough to know about it.
Q You were out long enough to make a residence in the State of Nebraska and bring a suit for divorces and get it? A I did not have to be out more than six months to apply for a divorce.

The name of Lottie Martin appears upon the authenticated roll of '80 as Charlotte C. Duncan and upon the census roll of '96 as Lottie Martin. She avers that she was married to John S. Martin in '89, and certificate of marriage is filed herewith. She avers that she was married to one Haegert, a white person, in the year '81, and that she was separated from him and while being separated from him she lived in the State of Nebraska. The names of her children, Rudolph and Viola Haegert and John S. Martin, jr., are found upon the census rolls of '96. Because of the question of citizenship, final judgment as to the enrollment of said Lottie Martin and her husband, John S. Martin will be suspended, and their names will be placed upon a doubtful card, and also the name of ~~her~~ ~~x~~ childs Viola, who was born in the State of Nebraska. Her child~~xxx~~, Rudolph Haegert, ~~and~~ ~~John S. Martin, jr.~~, being found upon the roll of '96 and having been born in the Territory, will be duly listed for enrollment as Cherokee by blood. The said John S. Martin, a child by her husband, John S. Martin, will be placed upon a doubtful card. Final judgment as to her case will be suspended.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Bueonnaus

Subscribed and sworn to before me this 21st day of Sept., 1900.

C N Bruce

Commissioner

Supplemental testimony in the Application of Charlotte Martin:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 26, 1900.

In the matter of the application of Charlotte Martin for enrollment as a citizen of the Cherokee Nation; said Martin being sworn by Commissioner C. R. Breckinridge, supplements her application as follows:

Q Give your name? A. Charlotte Martin.
Q What is your age, Madam? A About 38.
Q You want to give supplementary testimony in your former application? A Yes, sir.

Interrogatories by W. T. Hutchins, Cherokee Representative:

Q Give the name of your first husband? A Rudolph H. Haegert.
Q Did you andhe during your married life remove fromthe Indian Teritory; if so, state where you went, and whether you intended to move permanently from the Nation? A No, we did not intend to move permanently. He went off to hunt a job of work. He was a sheep man, a sheep hearder, I would call him by profession, and he went away to hunt him a job.
Q State where he went to? A We went from here to Nebraska, and he left me in Carney, Nebraska, and he went onto hunt a job.
Q How lang were you in Nebraska? A I would judge about three years, or something like that time.
Q Do you know whether your husband, while your relation with him as man and wife, became a citizen in the State of Nebraska. A I do not know that he did.
Q Where did your consider your home at that time? A At Uncle Jim Duncan's out here on Horse Creek, about nine or ten miles from here. I was staying there. He went ahead of me and I went next. I lived out here with me mother? X We never had any home. There is another thing I want to correct.was, Viola, they threw her out.because I understand that they understood that she was either born nine days before or nine days after out divorce. She was a year and almost a year and half old when I got my divorce, and from the way the law reads, I do not think she had lost her rights when she was born.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 26th day of September, 1900.

C. R. Breckinridge
Commissioner.

File with the order Doubtful 333.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 25, 1901.

In the matter of the application of John S. Martin et al for enrollment as Cherokee citizens.

ORDER AND STATEMENT.

Commissioner Breckinridge: Upon review of Cherokee straight case No. 2962, entitled Rudolph Haegert et al, it is found that the mother of Rudolph Haegert, by reason of the possible forfeiture of her citizenship after his birth was placed upon a doubtful card, No. 333, as was also her second husband, John S. Martin, and also a child of the second marriage whose name is John S. Martin. But inadvertently the name of this child, John S. was placed upon a straight card with the child of undisputed citizenship, Rudolph Haegert. It is now ordered that this child, John S. Martin be designated as John S. Martin, Jr., and that his name be transferred from straight card 2962 to doubtful card 333; and it is also Ordered that John S. Martin, the father of this child be designated upon the card as John S. Martin, Sr., and the same correction will be carried through the index, all the records being made to conform to present requirement.

A copy of this order will be filed attached to each copy of the testimony in both of said cases.

M. D. Green, being first duly sworn, states that he is stenographer to the Commission to the Five Civilized Tribes and he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this October 26, 1901.

C. R. Breckinridge

Commissioner.

YOKE MASS. U.S.A. 1901

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 28 1901

ACTING CHAIRMAN

VALLEY PAPER CO

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Cherokee D 332

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 20, 1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of John S. Harris et al., for enrollment as Cherokee citizens.

Appearances:
V. [illegible], attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter January 8, 1902, that his case would be taken up for final consideration by the Commission on the 25th day of February, 1902; that he could on said date appear in person or by attorney before the Commission when opportunity would be given him to introduce any additional testimony affecting his case. Receipt has been acknowledged of the Commission's letter; the applicant failed three times and fails to respond, and this case is ordered closed and reported to the Commission for final decision, based upon the evidence now of record.

The applicant this day forwards to the Commission a certified copy of the decree of divorce between Charlotte G. Hagen and Rudolph H. Hagert, and same has been duly filed.

Commissioner.

WDS

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 8, 1902.

In the matter of the application of Lottie Martin for the enrollment of herself, husband and three children as citizens of the Cherokee Nation. C. D. 353.

Brief on behalf of the Cherokee Nation.

The only question to be considered in this case is that of residence on the part of Lottie Martin; and the testimony shows that Lottie Martin remained in the state of Nebraska for a period of three years. She had been previously married to a white man, who she says was a sheep herder, and while in the state of Nebraska she brought suit against her husband for a divorce, and obtained it in the courts of that state. A copy of the divorce has been filed in this case. There is no question but what the applicant must have been a resident and citizen of the state of Nebraska, and she must have so alleged it in her complaint for a divorce filed in that court, or else she would not have been granted a decree of divorce; and if she was a citizen and resident of the state of Nebraska she could not have been at the same time a resident of the Cherokee Nation. Since that time she has never been re-admitted to citizenship in the Cherokee Nation; and it seems quite clear that the applicant forfeited her right to be enrolled as a citizen of the Cherokee Nation by her non-residence in the state of Nebraska, and by her bringing suit for divorce in that state, thereby recognizing it as her home, and invoking the aid of its laws.

Respectfully submitted,

C. W. Harding

Attorney for the Cherokee Nation.

Observer. 10. 1883.

To [illegible].

[illegible]

[illegible] Editor.

Cherokee D 333.

DEPARTMENT OF THE INTERRIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 14, 1902.

In the matter of the application of John S. Martin, Sr., for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Lottie Martin, his stepdaughter, Viola Haegert, and his son, John S. Martin, Jr., as citizens by blood, of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

JOHN S. MARTIN, SR., being sworn, testified as follows:

By the Commission,

Q What's your name, Mr. Martin? A John S. Martin.
Q John S. Martin, Sr.,? A Yes, sir.
Q What's your postoffice? A Vinita.
Q What's your age at this time, Mr. Martin? A Fifty-five.
Q Are you the same John S. Martin that made application to the Commission for enrollment as an intermarried citizen in September, 1900? A Yes, sir.
Q What's your wife's name? A Charlotte C. Martin.
Q Charlotte C.? A Yes, sir.
Q What's her age? A She is about thirty-eight, now.
Q What? A About thirty-eight, now.
Q Is she sometimes called Lottie? A Yes, sir, Lottie C.
Q But her full name is Charlotte C.? A Yes, sir.
Q Who made the application for her before? A She did.
Q She gave her name as Lottie? A Yes, more than half the time they call her that. They hardly ever call her Charlotte.
Q When were you married to your wife, Lottie or Charlotte?
A 1879, 27th of January, I think that's the way the license reads.
Q 1879? A '89.
Q Had you ever been married before your marriage to this wife?
A No, sir.
Q She's your first wife? A Yes, sir.
Q Had she ever been married before her marriage to you?
A Yes, sir.
Q How many times? A Once.
Q What was her husband's name? A Rudolph Haegert.
Q Was he a white man or Cherokee? A He was a white man.
Q Was he living or dead when you and your wife, Charlotte C., were married? A I don't know, she had not heard for years.
Q How long had it been since she heard from him when you and she were married, how many years? A I don't think she heard any straight news but once; she heard he was in Chicago once.
Q How long had it been since she had heard at all? A I can't tell you.
Q Was she ever divorced from him? A Oh, yes.
Q She was divorced before you and she were married? A Yes, sir.
Q So you are her second husband then? A Yes, sir.
Q Have you lived in the Cherokee Nation all the time since your marriage to your wife, Charlotte C., in 1889, up to the present time?
A Yes, sir, right at Vinita.
Q Never lived out of the Territory since? A No, sir.
Q How long has your wife, Charlotte C., lived in the Cherokee Nation? A All her life.
Q Ever since you and she were married to your knowledge? A Yes, sir.

Q This child, Viola Haegert, whose child is that? A That's Haegert's child.
Q By your wife? A Yes, sir.
Q Your wife's child by her first husband? A Yes, sir.
Q Is that child living at this time? A Yes, sir.
Q Has it lived in the Cherokee Nation all the time? A Only what time I sent her to school in the States.
Q Its home has been in the Cherokee Nation all the time? A Oh, yes, sir.
Q Whose child is John S. Martin, Jr.? A That is mine.
Q Your child by your wife, Lottie? A Yes, sir.
Q Is that child living at this time? A Yes, sir.
Q Has it lived in the Cherokee Nation all its life? A All the time. The other boy is on there, Rudolph.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 31st day of October, 1902.

B O Jones
Notary Public.

Cherokee D 135.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., November 18, 1902.

In the matter of the application of Lottie Martin for the enrollment of herself and her two minor children, Viola Haegert and John S. Martin, Jr., as citizens by blood, and for the enrollment of her husband, John S. Martin, Sr., as a citizen by intermarriage, of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

JOHN S. MARTIN, SR., being sworn, testified as follows:

By the Commission,

Q What is your name? A John S. Martin.
Q How old are you Mr. Martin? A About fifty-five.
Q You are a white man, are you? A Yes, sir.
Q And a claimant for enrollment as an intermarried citizen?
A Yes, sir.
Q What is your wife's name? A Lottie C. Martin. Charlotte.
Q What was her name prior to her marriage to you? A Haegert.
Q She had been married to a man by the name of Haegert before her marriage to you? A Yes, sir.
Q What was her maiden name? A Lottie C. Duncan.
Q When were you married to Lottie Martin? A '89 or '90, I forget which.
Q Married under Cherokee license, were you, Mr. Martin? A Yes, sir.
Q Were you ever married before you were married to Lottie Martin?
A No, sir.
Q She was only married the one time prior to her marriage to you?
A That's all.
Q Have you and Lottie Martin lived together as husband and wife all the time since your marriage up to the present time? A All the time.
Q Never have been separated? A No, sir.
Q And you have never been married to any other woman? A No, sir.
Q You and she living together as husband and wife on the first day of September, 1902? A Yes, sir.
Q Have you lived in the Cherokee Nation all the time since your marriage to Lottie? A All the time, yes, sir.
Q Have these children, Viola Haegert and John S. Martin, Jr., lived with you and your wife all the time since you were married to her?
A Yes, sir, all the time.
Q In the Cherokee Nation? A Yes, sir, In the Cherokee Nation.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 18th day of November, 1902.

Notary Public.

Cherokee D-353.

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

In the matter of the application of Charlotte C. Martin for the enrollment of herself and her minor children, Viola Haegert and John S. Martin, Jr., as citizens by blood, and for the enrollment of her husband, John S. Martin, Sr., as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 18, 1900, Charlotte C. Martin appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment, among others, of herself and her minor children, Viola Haegert and John S. Martin, Jr., as citizens by blood, and for the enrollment of her husband, John S. Martin, Sr., as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on September 25, 1900, on October 25, 1901, and at Muskogee, Indian Territory, October 14, and November 18, 1902. The other party to this application is differently classified and is not embraced in this decision.

The evidence shows that said Charlotte C. Martin is identified as a native Cherokee on the 1880 authenticated roll of the Cherokee Nation, by her maiden name Charlotte C. Duncan. From an examination of the records of the Cherokee Nation in possession of the Commission, it appears that Charlotte C. Martin and Viola Haegert, by the name of Viola Martin, are identified as native Cherokees on the 1890 census roll of said nation; and that John S. Martin, Sr., is identified thereon as an adopted white; that Charlotte C. Martin and Viola Haegert, by the name of Viola Martin, are identified on the 1894 strip payment roll of said nation. The name of John S. Martin appears on the orphan roll of the 1894 strip payment. The evidence further shows that Charlotte C. Martin, Viola Haegert and John S. Martin, Jr., are identified as native Cherokees on the 1896 census roll of the Cherokee Nation, and that John S. Martin, Sr., is identified thereon as an adopted white.

It further appears that in 1881 Charlotte C. Martin nee Duncan, was married at Fort Gibson, Indian Territory, to Rudolph Haegert and the child, Viola Haegert, is the issue of that marriage. Subsequent to said marriage they removed to the State of Nebraska, where the said Charlotte C. Martin, then Haegert, remained about three years. While there she applied for and was granted a divorce from the said Rudolph Haegert, in the District Court of Custer County Nebraska. After such divorce she returned to the Cherokee Nation, where on January 27, 1889, she was lawfully married under a Cherokee license and in accordance with the laws of the Cherokee Nation, to John S. Martin, Sr., her present husband, and John S. Martin, Jr., is the issue of the latter marriage.

The evidence further shows that Charlotte C. Martin has resided in the Cherokee Nation all her life, except during the period of about three years spent in Nebraska, which was some time between the years of 1881 and 1889; that the said John S. Martin has resided in the Cherokee Nation since the date of his marriage in 1889, and that he and his wife, Charlotte C., have been living together from the time of their marriage up to and including September 1, 1902. The minor children herein have always been residents of said Nation excepting Viola, who was born in Nebraska and lived there with her mother for the said period of about three years.

Article II of the treaty concluded between the United States and the Cherokee Nation, at Tahlequah, Indian Territory, on December 19, 1891, approved by the Principal Chief on January 4, 1892, and ratified by an act of Congress approved March 1, 1893, (27 Stats., L. 612-641), provides as follows:

"For and in consideration of the above cession and relinquishment the United States agrees:

First. That all persons now resident, or who may hereafter become residents, in the Cherokee Nation, and who are not recognized as citizens of the Cherokee Nation by the constituted authorities thereof, and who are not in the employment of the Cherokee Nation, or in the employment of citizens of the Cherokee Nation, in conformity with the laws thereof, or in the employment of the UnitedStates Government, and all citizens of the United States who are not resident in the Cherokee Nation under the provisions of treaty or acts of Congress, shall be deemed and held to be intruders and unauthorized persons within the intent and meaning of section six of the treaty of 1835; and section twenty-six and twenty-seven of the treaty of July 19, 1866, and shall, together with their personal effects, be removed without delay from the limits of said nation by the United States, as trespassers, upon the demand of the principal chief of the Cherokee Nation."

Upon examination of the lists of intruders and unauthorized persons residing in the Cherokee Nation, furnished by the Principal Chief pursuant to said treaty, which lists bear date of 1893 and are now in the possession of the Commission, it appears that the names of none of said applicants are found thereon. On the contrary, it appears that the applicant, Charlotte C. Martin, has been identified on every tribal roll of said nation made since her return from Nebraska.

It is, therefore, the opinion of this Commission that Charlotte C. Martin, Viola Haegert and John S. Martin, Jr., should be enrolled as citizens by blood of the Cherokee Nation, and that John S. Martin, Sr., should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495) and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

SIGNED. Tams Bixby.
Acting Chairman.

SIGNED. T. B. Needles.
Commissioner.

SIGNED. C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,

this N 28 1903

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Vinita, I.T., February 2nd.,1903.

IN THE MATTER OF THE APPLICATION OF LOTTIE MARTIN FOR THE ENROLLMENT OF HERSELF, HUSBAND AND THREE CHILDREN AS CITIZENS OF THE CHEROKEE NATION.

D--333

PROTEST OF THE CHEROKEE NATION.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission rendered on January 28th., 1903, and asks that the same be forwarded to the Secretary of the Interior for review.

The only question to be considered in this case is that of residence on the part of Lottie Martin, and the testimony shows that Lottie Martin remained in the State of Nebraska for a period of three years. She had been previously married to a white man, who she says was a sheep-herder, and while in the State of Nebraska she brought suit against her husband for divorce, and obtained it in the courts of that state. A copy of the divorce has been filed in this case. There is no question but what the applicant must have been a citizen and resident of the State of Nebraska, and she must have so alleged it in her complaint for divorce while in that state, or else she would not have been granted a decree of divorce, and if she were a citizen and resident of the State of Nebraska, she could not have been at the same time a resident of the Cherokee Nation. Since that time there is no allegation that she has ever been re-admitted to citizenship in the Cherokee Nation; and it seems quite clear that the applicant forfeited her right to be enrolled as a citizen of the Cherokee Nation by her non-residence in the State of Nebraska, and by her bringing suit for divorce in that State, there by recognizing it as her home, and invoking the aid of its laws.

The Cherokee Constitution, Section 2, Article I provides:

"Whenever any citizen shall remove with his "effects out of the limits of this Nation, and be-"comes a citizen of any other government, all his "rights and privileges as a citizen of this Nation "shall cease, provided, nevertheless, that the Nation-"al Council shall have the power to re-admit by law to "all the rights of citizenship in such person or per-"sons who may at any time desire to return to the "Nation, on memorializing the National Council for "such re-admission".

The applicant, Lottie Martin, left the Cherokee Nation with her former husband. She took all the effects she had with her. She became a resident and a citizen of the State of Nebraska, and she did not upon her return memorialize the Nation Council and was not re-admitted to citizenship in the Cherokee Nation. This woman under the law is not entitled to be enrolled; and to say the least, the reasoning used by the Commission in its decision on January 28th., 1903 is indeed surprising. The Commission finds the facts as hereinabove stated, but says that under Article II of an Agreement entered into by and between the Cherokee Nation and the Government of the United States, it was incumbent upon the Government of the United States to remove all of the intruders from the limits of the Cherokee Nation upon the demand of the Principal Chief of the Cherokee Nation, and that upon an examination of the list prepared by the Principal Chief the name of the applicant is not found thereon, and therefore the Commission reasons that the applicant was not an intruder and is entitled to be enrolled as a citizen of the Cherokee Nation.

It is perfectly well known to the members of the Commission, as it is known to the Government of the United States, that the Treaty above referred to was entered into by the Cherokee Nation in good faith; that by its terms the Cherokee Nation ceded to the Government of the United States the Cherokee Strip; that one of the considerations was the removal of all intruders, and it is perfectly well known that although hundreds of appeals were made, not one single intruder was ever removed, and because of the fact that the Government of the United States failed to comply with the terms of this agreement, it is well known that the Cherokee Nation gave up in despair, and never made a complete list of the intruders in the Cherokee Nation. If this intruder roll is the test, and all persons whose names do not appear thereon are entitled to be enrolled as citizens of the Cherokee Nation, then the Commission should enroll every person whose name appears upon a doubtful card, because, -we venture the assertion,--that not one name in twenty of the so called "intruders" appears upon this list that the Principal Chief prepared and attempted to have removed. Why complete the list when the Government flatly refused to comply with its Treaty provisions? If this woman is entitled to be enrolled as a citizen of the Cherokee Nation, we trust that it will be placed upon the ground of charity, and not upon the reasoning indicated by the Commission in its judgment, because that precedent would open the door to the admission of everyone who applies to be enrolled as a citizen of this Nation.

Whoever before heard of purely negative testimony admitting a person to citizenship in a Nation where that citizenship was worth three hundred and twenty-five dollars?

Respectfully submitted,

Wm Harrings

Attorney for the Cherokee Nation

[illegible] Petition for Citizenship Court.

In the matter of the application of Lottie [illegible], for enrollment of herself, husband and three children, as citizens of the Cherokee Nation. [illegible] District. _____

The applicant, Lottie [illegible], [illegible] for the enrollment of herself and husband and three children, has filed her enrollment upon the [illegible] roll, [illegible], [illegible] Nation, under the [illegible] number [illegible]. [illegible] applicants to be enrolled [illegible] husband, John C. [illegible]. The [illegible] are three children, [illegible] and [illegible], and John C. [illegible], Jr., and husband [illegible], John C. [illegible], [illegible] relying upon the '96 roll as [illegible] the [illegible] [illegible]. The applicants resided for [illegible] months [illegible], Robert Wilson, Indian Territory, and are [illegible] [illegible].

[illegible] the testimony in this case shows the identification of the applicant, Lottie [illegible], upon the '96 roll and places [illegible] Hughes, [illegible] known as the strident [illegible] roll, [illegible] and other [illegible] [illegible].

[illegible] the case appears to be the [illegible] of Nebraska, [illegible]. So [illegible], [illegible] to [illegible] the [illegible], the record in [illegible] certified copy of the decree of divorce [illegible] Nebraska. [illegible] for [illegible] re-[illegible] [illegible] for [illegible] in the State [illegible], etc. [illegible] to the [illegible] to [illegible] [illegible] in the [illegible] state. [illegible] the recital [illegible] the [illegible] of the [illegible] of divorce, [illegible] time. [illegible] party is an [illegible] citizen of the Cherokee Nation and it comes to a question of the status of that citizenship, [illegible] the [illegible] to show that

[illegible]

[illegible] and [illegible] state. [illegible] of time, [illegible] alone [illegible]

> [illegible]

[illegible]

features

[illegible] territory, [illegible] not be [illegible]

[illegible]

[illegible] settlement, upon the ground that [illegible] is a non-resident of the state, [illegible], has [illegible] in some state [illegible] voter, [illegible] citizenship, [illegible] etc.

> "[illegible] residence. It implies [illegible] residence [illegible] is not indispensable [illegible] bona fide [illegible] required. [illegible] not to [illegible] it."

[illegible] 27.

[illegible] it be [illegible], [illegible] to the [illegible] does not [illegible] intention of [illegible] her [illegible] It is [illegible] the [illegible] of the [illegible], but it [illegible] citizenship [illegible] peculiar. [illegible] great [illegible] ~~[illegible] that the [illegible] Constitution [illegible] of the country.~~

Condition

U.S. vs. New York & New Orleans 170 U.S.

See

[illegible] Martin.

[illegible] forfeiture [illegible] the government, [illegible] that the [illegible] itself [illegible] legislative [illegible] action, [illegible] history of the [illegible] [illegible] [illegible] the [illegible] [illegible] ation [illegible] of the [illegible].

[illegible] announced ~~[illegible]~~ [illegible] decision ~~[illegible]~~ [illegible] forfeiture [illegible] case [illegible].

[illegible] [illegible] [illegible] [illegible] state [illegible] [illegible] [illegible] and [illegible] [illegible] ever [illegible]

[illegible] vs. [illegible] [illegible] it [illegible] necessary to [illegible] [illegible], but he reiterates that it contemplated [illegible] of

C.D. No 333

Lottie & J. S.
Martin Et al

vs

Cherokee N.

(Copy)
Brief for
applicants

Mellette & Smith
attys for Appli
cants

to work a forfeiture

Mellette & Smith

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-333.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, January 29, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 28, 1903, granting the application of Charlotte C. Martin for the enrollment of herself and her minor children, Viola Haegert and John S. Martin, Jr., as citizens by blood, and for the enrollment of her husband, John S. Martin, Sr., as a citizen by intermarriage, of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-1.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING:

Cherokee D-333

Muskogee, Indian Territory, February 16, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission has this day transmitted to the Secretary of the Interior for review, the record of proceedings had in the matter of the application of Charlotte C. Martin for the enrollment of herself and her two minor children, Viola Haegert and John S. Martin Jr., as citizens by blood, and for the enrollment of her husband, John S. Martin Sr., as a citizen by intermarriage, of the Cherokee Nation, including the Commission's decision, dated January 28, 1903, granting said application, and the protest of the Cherokee Nation against said decision, dated February 3, 1903.

The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Acting Chairman.

MDG

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-333

Muskogee, Indian Territory, November 16, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 28, 1903, granting the application of John S. Martin, Sr., for the enrollment of himself as a citizen by intermarriage, for the enrollment of his wife, Charlotte C., his minor child, John S., Jr. and his minor step-child, Viola Haegert, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior as to all except himself, November 7, 1903.

Respectfully,

Chairman.

(C O P Y

DC.53244-1906. YP

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D6480-1906. December 1, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

November 7, 1903, the Department affirmed the decision of the Commission to the Five Civilized Tribes, in favor of the applicants, in the Cherokee enrollment case of Charlotte C. Martin et al., except as to John S. Martin, Sr., who claims as an intermarried citizen of the Cherokee Nation.

In view of the decision of the Supreme Court of the United States in the case of Daniel Red Bird et al., citizens of the Cherokee Nation by blood, and Francis B. Fite et al., claiming to be entitled to citizenship in the Cherokee Nation by intermarriage, the decision of the Commission to the Five Civilized Tribes of January 28, 1903, is reversed so far as John S. Martin, Sr., is concerned.

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.

3 inc.to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 333

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

Muskogee, Indian Territory, December 19, 1906.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated January 28, 1903, granting the application for enrollment of John S. Martin, Sr, as a citizen by intermarriage of the Cherokee Nation, was reversed by the Secretary of the Interior, December 1, 1906.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Wm O Beall,

Acting Commissioner.

Encl.H-2
JMH

CHEROKEE D 333

John S Martin et al.

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DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 18th, 1900.

IN THE MATTER OF THE APPLICATION OF LOVICK P GARRISON FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN AS CHEROKEE CITIZENS.

The said Lovick P. Garrison, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q What is your full name? A Lovick P. ~~xxxxxxx~~ Garrison.

Q How old are you? A Forty years old.

Q What is your post office? A Blue Jacket.

Q In wht district do you live? A Delaware.

Q Who is ityou want to have put on the roll? A Myself, wife and four children.

Q Do you apply for yourself as a Cherokee by blood? A No, sir.

Q Is your wife a Cherokee? A Yes, sir.

Q What proportion of Cherokee blood? A One thirtysecond, I think.

Q Have you got your marriage license and certificate? A Yes, sir.

THE COMMISSIONER: The applicant presents a duly authenticated marriage license and certificate showing that he was licensed by the Clerk of Delaware District on May 27th, 1895, to marry Miss Mollie A. Garrison, and the certificate shows that in accordance with the Cherokee law he did marry his wife on the same date as that of the license, the clerk of the district officiating. These papers are filed herewith.

Q Have you lived with your wife ever sincyou weremarried? A Yes, sir.

Q You have lived in the Cherokee Nation all the time? A ~~xxx xxx~~ No, sir.

Q Well, here have you lived? A Part of the time in Texas.

Q How long have you been living in the Cherokee Nation? A I lived in the Cherokee Nation in 1892 and three,--part of 1892 and 3.

Q Part of 1892 and 3? A Yes, sir.

Q Then what did you do? A I went back to Texas.

Q And how long did you stay in Texas? A Well, I remained in Texas off and on; I was back here a number of times.

Q But off and on how long? A From 1893 to 1896, and part of 1898.

Q What became of 1897? A Well, 1897 too.

Q When did you come back here and stay? A When did you come back from Texas the last time? A In 1898.

Q What time in 1898? A In the spring of 1898; I don't remember the month.

Q You returned the last time in the spring of 1898, is that right? A Yes, sir; and then I have been back to Texas sincethen?

Q With your family? A Yes, sir. In thefall of 1898 I was in Texas, and so in 1899.

Q With your family? A Yes, sir.

Q Where is your family at this time? A They are at the farm in Blue Jacket.

Q What were you doing in Texas? A Part of the time selling

goods and part of the time in the mercantile business for myself, and last fall I was buying cotton down there.

Q Keeping house? A Yes, sir.

Q And voting? A No, sir; I haven't voted--Well, I voted--I don't remember unless I voted in 1896 election. I don't remember.

Q You mean to say you have not voted for a member of congress in Texas since 1896? A No, sir.

Q You have not voted for governor? A No, sir.

Q Did you ever vote for members of the legislature? A No, sir.

Q What interest did you have back up here? A I had a farm and stock.

Q You have been merchandising and dealingin cotton down there A Yes, sir.

Q When you came back here did you leave your wife and family down there or bring them with you. Were they there more than here or here more than there? A It was about an equal division, I think

Q How old is your wife? A She is thirty-five.

Q Is she on the roll of 1880? A No, sir.

Q Is she a native of the Cherokee Nation? A Yes, sir.

Q Why isn't she on the roll of 1880? A She wasn't here.

Q Where was she? A She was in Texas.

Q Where didyou marry her? A I married her first in Texas.

Q Then you married her under the Cherokee law? A Yes, sir.

Q Was she ever here until she came back with you? A Yes, sir; she was born here.

Q What time did she go to Texas?
A When she was a child the first time.

Q And how long did she stay there? A She staid there until she was married.

Q In 1893? A Well, she staid there until 1891. She was admitted in 1891; here are the papers.

THE COMMISSIONER: The applicant presents an official copy of a bill passed by the Cherokee Council and approved by the Chief of the Nation, admitting Mollie A Garrison and child to citizenship November 21, 1891, on condition that it shall be operative when they remove to and become permanently located within the limits of the Cherokee Nation.

Q Your wife had a child in 1891? A Yes, sir.

Q Is that one of the four children you are applying for now? A Yes, sir.

Q Give me the names of these children please.
A Mannie P Garrison.

Q Is that the child mentioned in this act of admission?
A Yes, sir.

Q How old is that child? A Sixteen.

Q The next child? A Mollie V. Garrions.

Q The same name? A Yes, sir.

Q How old is that child? A She is seven, I believe.

Q The next child? A Sallie W. Garrison.

Q How old is that child? A She is five.

Q The next child? A Vester P. Garrison.

Q How old is that child? A She is two years old.

Q These are all your children? A Yes, sir.

Q They are all living now are they? A Yes, sir.

1896 Roll, page 476, No. 1328, Mollie A Garrison, Delaware District. Native.

1896 Roll, page 873, No. 199, Levick P. Garrison, Delaware District.

1896 Roll, page 442, No. 1329, Mannie P. Garrison, Delaware District.

1896 Roll, page 476, No. 1330, Mollie M. Garrison, Delaware District.

1896 Roll, page 476, No. 1331, Sallie M. Garrison, Delaware District.

Q You say your family went back there as late as 1899? A We didn't go back until the spring of 1899.

Q Have you been in the Cherokee Nation ever since the spring of 1899? A We didn't leave there until the fall of 1899.

Q So you staid there from the spring of 1899-----

A (interrupting) My family was there in the summer of 1899; I came here.

Q Then you went back in the fall of 1899 with your family? A Yes, sir; and bought cotton.

Q Your family were keeping house? A Yes, sir.

Q That is where they were making their domicile? A Yes, sir.

Q Well, that brings you up to 1900. Where were you last winter? A We was there until January.

Q Where were you until spring? A We came up here.

Q What time? A It was in February we came up here.

Q And you have been here since February? A Yes, sir.

Q With your family? A Yes, sir.

Q When are you going back to Texas? A I don't know.

Q Have you sold out down there? A Not exactly. I have sold my business there.

Q When? Last winter? A I sold my business January was a year ago.

Q January 1899? A Yes, sir.

Q You had your business up to that time? A Yes, sir.

THE COMMISSIONER: The applicant applies for the enrollment of himself, his wife and four children. He shows by the certificate of admission presented and filed herewith that his wife was admitted to citizenship in 1891, and by the marriage license and certificate filed herewith, that he married her in accordance with the Cherokee law in 1893. They have lived together ever since and they are identified on the roll of 1896. It appears however that their residence has chiefly, down to the winter of 1900, in the State of Texas, where they have been domiciled, and the applicant has been regularly conducting business, making occasional visits back to the Cherokee Nation. It appears exceedingly doubtful if they are entitled to enrollment under the provision contained in Section 21 of the Curtis Bill, which provides that no person shall be enrolled who has not theretofore removed to, and in good faith settled in, the Nation in which he claims citizenship. Attention is also called to a provision of similar character in the act admitting his wife to citizenship, which was passed by the Cherokee Council.

Therefore, at this time, the applicant and his wife will both be placed upon a doubtful card for further consideration.

Of their four children, the first three enumerated in the testimony are identified with their parents on the roll of 1896. Their residence in the State of Texas is of the same character as that of their parents, and they will likewise be placed upon a doubtful card, and when the Commission is supplied with a proper certificate of the birth of the youngest child, Vester P., it also will be placed upon a doubtful card with the balance of the family.

The applicant will be notified of the final decision of the Commission, whether it be favorable or unfavorable, and that decision

will be forwarded to the Secretary of the Interior for his final approval.

The undersigned being dulysworn states thatas stenographer to the Commission to the Five Civilized Tribeshe correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm. A. McDonald

Subscribed and sworn to before me this 28th day of September A. D. 1900.

Commissioner.

D 334

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900

ACTING CHAIRMAN.

Cherokee D-334.

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I.T., November 13, 1901.

In the matter of the application of Lovick P. Garrison et al. for enrollment as Cherokee citizens.

Supplemental testimony on behalf of the applicants:

Appearances:
Applicant not present:
Cherokee Representatives present.

J. R. COPELAND, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A J. R. Copeland.
Q What is your age? A 40 years old.
Q Are you a Cherokee citizens? A Yes, sir.
Q Do you desire to make a statement in regard to the citizenship of Lovick P. Garrison? A Yes, sir.
Q Well, you can make a statement and the same will be taken down by the stenographer. A L. P. Garrison married a first cousin of mine. His wife was taken to Texas during the war when she was a baby. Her mother died there and her father was a white man and married out. After she came of age and married, her husband applied for readmission to citizenship in the Cherokee Nation and was readmitted in '91 or '2. He came here then and remarried according to the Cherokee law, I disremember just when, I think it was in '94 that he came here. He moved his effects with the exception of some groceries, he moved his cattle and his family andeverything here when he came to this country, and while his family was here he was winding up his affairs in Texas and he unfortunately taken sick and his wife had to go back to Texas, and the Curtis Bill was passed. That is about all I know about the case, and he was placed on the doubtful list. He has complied with the law in every respect with that exception, to my knowledge. He now resides here and his family and all his property is here.
Q When did he remove here from the State of Texas? A I think he came here in '94, but I am not positive, and remarried according to the Cherokee law immediately after.
Q You know these facts to be true that you have stated? A Yes, sir.
Q Do you know Mollie, the wife of Lovick P. Garrison? A Yes, sir.
Q How many children have they? A They have four now.
Q Are they all living at this time? A Yes, sir.
Q To your knowledge, they have lived continuously in the Cherokee Nation since 1898? A Yes, sir.
Q Do you know what time in the year 1898 they returned from Texas?
A Why I think it was in the fall of '98, sometime probably in this month, to the best of my recollection.
Q Has Mr. Garrison lived in Texas since that time? A He has had property there.
Q He went backwards and forwards to attend to his property?
A Yes, sir.
Q Did he leave his family here? A Yes, sir.
Q His family have a local habitation here, keeping house? A Yes, sir. have a farm at Bluejacket, has his cattle there; he is now in the grocery business at Vinita.

Commissioner: This testimony will be filed with the original testimony taken in the case.

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-2-

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 13th of November, 1901.

Commissioner.

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

FILED
NOV 13 1901

ACTING CHAIRMAN

"R"

D 334

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 25, 1902.

In the matter of the application of Lovic P. Garrison, for the enrollment of himself, wife and children as citizens of the Cherokee Nation:

Appearances:
Applicant present in person;
W W Hastings, for the Cherokee Nation.

The Commission: Is there any statement you desire to make relative to your case ?
Applicant: I would like to make a little statement.

LOVIC P. GARRISON, being sworn and examined, testified as follows:

Q What is your name ? A Lovic P. Garrison.
Q How old are you ? A I will be 42 tomorrow.
Q What is your post office address ? A Vinita at present.
Q Do you desire to make a statement relative to your enrollment ?
A Yes sir.
Q Proceed. A In regard to being out of the Territory after July 1, 1898, I wanted to state that it was only temporary, and was strictly on business matters, and not of a permanent nature. That's all. It was in regard to closing my business interests in Texas that I had to attend to.
Q When did you leave the Territory ?
A After July 1, 1898. I wanted to state that it was only temporary, and strictly on business matters; well, this statement I was to make was in 1899, I think; the fall of 1899. I don't remember the exact date.
Q Is that the only statement you desire to make ?
A Yes sir.
Q Do you submit the case to the Commission for final consideration ?
A Yes sir.

Applicant and the representatives of the Cherokee Nation submit this case to the Commission for final consideration, and the same is ordered closed, and reported to the Commission for final decision based upon the evidence now on file.

E. C. Bagwell, on oath states, that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 26, 1902.

T B Needles

Commissioner.

Cher- D-234.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 28, 1902.

In the matter of the application of Levick P. Garrison for his enrollment as an intermarried citizen of the Cherokee Nation, and for the enrollment of his wife Mollie A. Garrison, and his children Nannie P., Mollie V., Sallie M., and Vester P. Garrison as citizens by blood of the Cherokee Nation.

Levick P. Garrison, called as a witness, being first duly sworn by the Commission, testified as follows:

Q What is your name? A Levick P. Garrison.
Q How old are you? A Forty two years old.
Q What is your postoffice address? A Vinita at present.
Q Are you a white man? A Yes sir.
Q Are you claiming a right to be enrolled as a Cherokee citizen by intermarriage? A Yes sir.
Q What is your wife's name? A Mollie A. Garrison.
Q Is she a Cherokee by blood? A Yes sir.
Q Is she the wife through whom you claim your citizenship? A Yes sir.
Q How long has your wife been living in the Cherokee nation? A She has been here since 1893.
Q Is she an admitted citizen? A Yes sir.
Q When was she admitted to citizenship? A The certificate dates 1891--council of 1890.
Q She came here in 1893? A Yes, 1892-3, I am not sure now.
Q Has she been living in the Cherokee nation ever since? A Not continuously.
Q When were you married? A In 1893.
Q Were you married under a Cherokee marriage license? A Yes, I had been married before in Texas.
Q Under the laws of Texas? A Yes sir.
Q Is Mollie your first wife? A Yes sir.
Q And are you her first husband? A Yes sir.
Q Have you and Mollie been living together ever since you were married? A Yes sir.
Q Never have been separated have you? A No sir.
Q And you are living together now? A Yes sir.
Q You say you have not been living in the Cherokee nation all the time since you were married? in 1893? A No sir.
Q Where have you been? A Texas.
Q When did you go to Texas after you were married? A The latter part of 1893.
Q How long did you stay in Texas? A There on and off---
Q About how long did you stay when you went there first? A Well, until 1897.
Q What were you doing in Texas? A Merchandise.
Q Running a store? A Yes sir.
Q Did you have any property down there? A Yes sir.
Q Did you vote in Texas during that time? A I am not sure, but I think I did.
Q Had you any property in the Cherokee nation? A Yes sir.
Q What kind?? Farm property? A Yes, stock and farm.
Q Were all your household effects with you down in Texas? A No, I had two sets of furniture.
Q When did you come back to the Cherokee nation? A 1897 if I remember right; I was back there again several times, winding up and tending to business.
Q How long did you stay in the Cherokee nation after you came back in 1897. A These intervals were short, and I don't now remember; I never gave it any thought; business trips back and forth.
Q For the purpose of closing up your business in Texas? A Yes sir.

Q How much of the time have you been in Texas since 1897? A Very little; only a short time, for a month or two months.
Q Where have you considered your home during all the time you have been married, or have you had two homes? A I have had two; I never gave it much thought.
Q The Cherokee nation has been your home since 1897? A Yes, I kept house in Texas some after that.
Q Did you vote in Texas after that? A I don't think I did.
Q Have you voted in the Cherokee nation since 1897? A Yes sir. Only once.
Q Where were you residing on June 28, 1898? A My family was here; I was in Texas myself; I was living in Fairland.
Q You have closed up your business in Texas? A All except some farming interests I had.
Q Has your family been living in the Cherokee nation since 1898? A Yes, they was back in Texas a short time in 1899 during the fall; my daughter was in school; I had a residence in town.
Q How many children have you? A Four.
Q All living? A Yes sir.

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Frances R. Lane, on oath states that as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the above entitled cause, and that the foregoing is an accurate transcript of her stenographic notes thereof.

Frances R Lane

Subscribed and sworn to before me this October 20, 1902.

B C Jones
Notary Public.

Q How much of the time have you been in Texas since 1897? A Very little, just a short time, for a month or two month.

Q Where have you considered your home during all the time you have been married, or have you had two homes? A I have had two; I never gave it much thought.

Q Your Cherokee Nation, do such you have since 1897? A Yes, I kept up in Texas some after that.

Q Did you vote in Texas after that? A I don't think I did.

Q Have you voted in the Cherokee Nation since 1897? A Yes sir, only once.

Q When were you residing on June 28, 1898? A My family was here; I was in Texas myself; I was living in Vinita.

Q You have attended to your business in Texas? A All except some trading I made.

Q Has your family been living in the Cherokee Nation since 1897? A Yes.

Q They was back in Texas a short time in 1897 during the fall; my daughter was in school; I had a residence in town.

Q How many children have you? A Four.

Q All living? A Yes sir.

Witness Q. Lane, on oath states that he stenographer to the Commissioner in the Five Civilized Tribes, did recorded the testimony and proceedings in the above entitled cause, and that the foregoing is an accurate transcript of her stenographic notes thereof.

Subscribed and sworn to before me this October 20, 1906.

Q 334

Cherokee D 334.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Mollie A. Garrison, Nannie P. Garrison, Mollie V. Garrison, Sallie M. Garrison and Vester P. Garrison as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 18, 1900, Lovick P. Garrison appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of his wife, Mollie A. Garrison, and minor children, Nannie P., Mollie V., Sallie M. and Vester P. Garrison, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Tahlequah, Indian Territory, November 15, 1901, and at Muskogee, Indian Territory, on February 25 and October 18, 1902.

Application was also made for the enrollment of Lovick P. Garrison as a citizen by intermarriage of the Cherokee Nation, but his status as such is not passed upon at this time and he is not embraced in this decision.

The evidence shows that the said Lovick P. Garrison was married to his wife, Mollie A. Garrison. As a result of that marriage the minor applicants herein were born. The evidence further shows that the said Mollie A. Garrison and Nannie P. Garrison were admitted to citizenship in the Cherokee Nation by the duly constituted authorities thereof, on November 24, 1891. All of the applicants, except Vester P. Garrison, are duly identified on the 1896 census roll of the Cherokee Nation, the said Vester P. Garrison being duly identified by a birth affidavit made a part of the record herein.

The evidence further shows that the residence of the principal applicant alternated between the Cherokee Nation and the State of Texas, where her husband had business interests; that in 1897 she removed with her said husband and family to the Cherokee Nation where they continued to reside and keep house up to and including June 28, 1898. The minor children have lived with their said parents since birth, and their residence is considered to be the same as that of their said mother.

It is the opinion of this Commission that, following the decision of the Department in the case of Joseph D. Yeargain, et al., (I. T. D. 2900-1903), Mollie A. Garrison, Marvin P. Garrison, Mollie V. Garrison, Sallie H. Garrison and Vester P. Garrison should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stat., 495), and it is, therefore, so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Dated at Muskogee, I. T.,
this JUN 1 - 1903

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Tahlequah I. T. July 22, 1903.

Cherokee D 334.

In the matter of the application for the enrollment of Mollie A. Garrison et al as citizens by blood of the Cherokee nation.

Protest of the Cherokee nation.

The Cherokee nation respectfully dissents from the opinion of the Commission in this case rendered on June 1 1903 and asks that the decision and the record in the case be forwarded to the Honorable Secretary of the Interior for Review.

The evidence in this case shows that the applicant Mollie A. Garrison was readmitted to citizenship by the national Council on November 24th 1891; that she did not remove to and permanently locate within the limits of the Cherokee nation until 1897, although her husband had made some trips to the Cherokee Nation prior to that time but there seems to have been no permanent settlement on their part in the Cherokee nation prior to 1897.

The Act of Congress of June 10th 1896 provides that the United States Commission shall respect all laws and customs of the several tribes, not inconsistent with the laws of the United States in making the rolls of the several tribes.

The Cherokee National Council passed an act on December 4, 1894 which contained the following provision:

" That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months after the passage of this act or from the date of the readmission of persons hereafter readmitted or no rights whatever shall accrue to such persons by reason of such readmission, provided that nothing in this act shall bar minors and orphans."

The Commission held in the case of Berley H Guy et al Cherokee D831 that this act of the national Council was binding on the Commission and rejected the applicant in that case because she did not comply with this act; in the case of William H Dupre et al the Commission ordered the applicant enrolled because he located in the Cherokee Nation prior to the passage of this act.

We contend that the applicants in this case are in the same attitude as Berley E. Guy and that if any respect is to be given to this act of the Cherokee National Council that the applicants are not entitled to be enrolled as citizens of the Cherokee Nation.

Respectfully,

W W Hastings

Attorney for the Cherokee nation.

CHEROKEE D. 334.

Department of the Interior, Commission to the Five Civilized Tribes, August 4, 1903.

In the matter of the application for the enrollment of Mollie Harrison et al as citizens by blood of the Cherokee Nation.

REPLY TO PROTEST FILED BY CHEROKEE NATION.

Come the above named applicants by their attorney and for their reply to the protest of the Cherokee Nation under date of July 28, 1903, protesting against the confirmation of the decision of the Commission to the Five Civilized Tribes rendered on June 1, 1903 say,

FIRST, that the Cherokee Nation fails to show any just cause why the decision of the Commission should be reversed and they denied citizenship in the Cherokee Nation.

SECOND, because the testimony in this case show that after the re-admission of Mollie A. Harrison on Nov. 24, 1891, they came to the Cherokee Nation in 1892, and there remained a portion of 1892 and 1893, and that owing to business in which her husband was engaged in Texas, they went back and forth to Texas. That they acquired property in the Cherokee Nation and moved with all their effects here and permanently located in the Cherokee Nation in the spring of 1893.

THIRD, applicants contend that the Cherokee law passed on Dec. 4, 1894 and set out in full in the protest of the Cherokee Nation is not applicable to them for the reason that she had at one time, as shown by the proof, been a resident member of the Cherokee Nation and was again re-admitted to citizenship, and that she came and now constantly located in the Cherokee Nation prior to June 28, 1898.

The applicants contend that under no construction of the statute can the law, cited by the Cherokee Nation be made to apply to the facts in this case. They cite the case of Bayley E. Guy Cherokee D. 831. A careful review of that case will show that the

Commission, as well as the Secretary of the Interior erred in their rulings for the reason that the proof showed Berley E. Guey to have been a minor at the date of her re-admission and that she was born at an early day and acquired property, continued to won the same up to the date of her application. That she was a resident in the Cherokee Nation on or before June 28, 1898.

Applicants rely upon the evidence in this case and the law as promulgated by the Attorney General on July 8, 1903, for confirmation of this case in which he holds the law to be in applicable to cases of this character. The Attorney General in his opinion above referred to after reciting the various acts, uses the following language: " These bands who had not removed to the new seats began to assert interest in the lands or funds arising from their disposal. There was also cases of adoption by tribual action of persons who had never identified themselves with the tribe,, to preclude such claims by those who in no way co-operated to the national development. Congress provided that no person should be enrolled who had not removed to and in good faith settled in the Nation in which he claimed citizenship." The provision has no reference to such persons as had been at sometime in good faith residents of the Cherokee Nation, but for some temporary purpose without intent to abjure citizenship or to permanently sever his connection with the nation was absent therefrom at the passage of the act, citing case of Joe D. Yeargin et al. Opinion of Assistant Attorney General, March 16, 1903.

Applicants further call the attention of the department to the opinion of the department in the case of Ora F. Lewis (nee) Camp. It will be noticed by the department that when the decision in the Berley E. Guey case was rendered the department had not then referred this question of law to the Attorney General for his opinion for the guidance and control of the department, but since the opinion has been handed down we take it that the department will be guided by same and will be glad to correct any error

of injustice, that may have been done an applicant for citizenship in either of the tribes.

We are convinced of the fact that it is not the policy of the department nor the wishes of any of the departmental officers to do an injustice to any one and we feel that in the presentation of this matter and in the decision rendered by the Commission to the Five Civilized Tribes there has been no injustice done the Cherokee Nation but we feel that to grant the protest of the Cherokee Nation and review, and reverse the decision of the Commission to the Five Civilized Tribes would deny to applicants an inheritance which has been handed down to them by their fathers and one which is a birth right, as sacred to them as any ties of nature.

We therefore respectfully urge that the decision of the Commission to the Five Civilized Tribes was correct and that the same should be affirmed.

Respectfully submitted,

James A. Dunn
Attorney for Applicants.

CHEROKEE D. 834.

Before the Hon. A. E. Hitchcock, Secretary of the Interior.

In the matter of the application of Mollie A. Garrison et al for enrollment as citizens of the Cherokee Nation by blood, I, W. W. Hastings, Attorney for the Cherokee Nation in making the final roll of the Cherokee citizens hereby accept service and a receipt of a copy of the reply to protest of the Cherokee Nation of Mollie A. Garrison et al, applicants for enrollment as Cherokee citizens by blood.

Attorney for the Cherokee Nation
in making the Cherokee roll.

Reply to
Rules

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-334.

Muskogee, Indian Territory, July 9, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 1, 1903, granting the application of Lovick P. Garrison for the enrollment of his wife, Mollie A. Garrison, and his four minor children, Nannie P., Mollie V., Sallie M. and Vester P. Garrison, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. H-30.

MDG

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D-334.

Muskogee, Indian Territory, October 2, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated June 1, 1903, granting the application of Lovick P. Garrison for the enrollment of his wife, Mollie A. Garrison, and his four minor children, Nannie P., Mollie V., Sallie M. and Vester P. Garrison, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on September 12, 1903.

Respectfully,

Chairman.

Lovick P Garrison et al

Cher D 335

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 26th, 1900.

IN THE MATTER OF THE APPLICATION OF ELMER H. ELEXANDER, FOR THE ENROLLMENT OF HIMSELF AND CHILD AS CHEROKEE CITIZENS.

The said Elmer H. Alexander, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q What is your full name, please? A Elmer H. Alexander.
Q How old are YOU? A Thirty-one.
Q What is your post office? A Grove, Indian Territory.
Q Wht district do you live in? A Delaware.
Q Who is ityou want to have putonthe roll? A Myself and one child.
Q Did you marry your wife since 1895? A Yes, sir.
Q Do you applyfor yourself as a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A I was rissed here.
Q You have lived here all your life? A Yes, sir.
Q What district were you in in 1880? A I don't know; Delaware I guess.
Q What district were you in in 1896? A Delaware.
Q Who was your father? A Harris Alexander.
Q Cherokee or white man? A White man.
Q Dead or alive? A I guess he indead. He went off to the war.
Q Give me your mother's name. A Mary.
Q Cherokee or whitewoman? A Cherokee.
Q Dead or alive? A Alive.
Q What is the name ofyour child? A Robert Lee.
Q How old is the child? A Six mo nths old.
Q What is the name of his mother? A Claretta.
Q Have you a marriage certificate? A No, sir.
Q Is shea white woman? A Yes, sir.
Q Have you got somebody here who was at the wedding? A There is some parties here, but I don't know whether I could find them or not.
Q Have you ever married before? A Yes, sir.
Q Were you divorced from that wife? A Yes, sir.
Q Where is your decree of divorce? A It is at home.
Q Were you married by a preacher? A Yes, sir.
Q Did you get a certificate of marriage the last time?
A Why he said he would fill it out, and I could getit when I came down there, but I didn't get it.
Q When were you married? A March, 1899.
Q And you never ave gotten it? A No, sir, not yet.
1880 Roll, page 217, No. 54, Elmer Alexander.Delaware District, Native.
1896 Roll, page 432, No. 70, Elmer Alexander, Delaware District.
Q Wh twas your present wife's name when you married her?
A Claretta Jones.
Q You were never married but one before? A ~~Exkex~~ That is all.
THE COMMISSIONER: The applicant applies for the enrollment of himself and one child. He is identified on the rolls of 1880 and 1896 as a native Cherokee. He haslived inthe Cherokee Nation all his

life, and he will be listed now for enrollment as a Cherokee by blood.

In regard to his child: He is required to produce a copy of the decree of divorce freeing him from the obligation to his former wife, and showing that he was at liberty to marry his present wife, whom he says he married in March 1899. He is also required to furnish a certificate of marriage to his present wife, and also a certificate of birth of the child Robert L. Alexander, whom he states is six months old. This child will at present be placed upon a doubtful card.

Applicant excused.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in the above mentioned application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm. J. Millsheen

Subscribed and sworn to before me this 28th day of September A. D. 1900.

Commissioner.

9335

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900

ACTING CHAIRMAN

mpo

D 335

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 26, 1902.

In the matter of the application of Elmer H. Alexander, for the enrollment of his two children, Robert L., and Stephen B. Alexander, as citizens of the Cherokee Nation:

J. C. STARR, one of the representatives of the Cherokee Nation, being sworn, testified as follows:

Examined by W W Hastings:

Q What is your name ? A J. C. Starr.
Q Do you know Robert L. Alexander ? A Yes sir.
Q Do you know his father Elmer H. Alexander ? A Yes sir.
Q Have you any information as to whether Robert L. Alexander is now living, or not ? A Yes sir.
Q What information have you ?
A I have a letter from Elmer H. Alexander stating that Robert L. Alexander died on September 1, 1901.

The Commission: This testimony will be filed and made a part of the record in the above case.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he accurately recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

D. 135.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1908.

In the matter of the application of Elmer E. Alexander for the enrollment of his two children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 3, 1908, that this case would be taken up for final consideration by the Commission on the 25th day of February, 1908, and that he could on said day appear and introduce any further testimony affecting the application of his children. Receipt has been acknowledged of the Commission's letter. The applicant called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for a decision based upon the evidence now of record.

Commissioner.

D335

Cherokee D-335.

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

In the matter of the application of Elmer H. Alexander for the enrollment of his minor children, Robert L. Alexander and Stephen D. Alexander, as citizens by blood of the Cherokee Nation.

DECISION.

The record in this case shows that on September 18, 1900, Elmer H. Alexander appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of his minor child, Robert L. Alexander, as a citizen by blood, of the Cherokee Nation. The application also included Elmer H. Alexander, but he is differently classified and is not embraced in this decision. Affidavit of the birth of Stephen D. Alexander was filed with the Commission on October 30, 1901, showing the date of his birth to have been subsequent to the date of this application. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 25, 1902.

The evidence shows that said Elmer H. Alexander is a Cherokee by blood and is identified as such on the 1880 Authenticated Roll of the Cherokee Nation and on the 1896 Census Roll of said Nation. The applicants are too young to appear on any of the tribal rolls of said Nation, but are identified by birth affidavits made a part of the record herein.

It appears that on March 23, 1899, Elmer H. Alexander was lawfully married to one Clerrettie George (or Jones), a non-citizen, and the applicants are the issue of such marriage. It further appears that said Elmer H. Alexander had been once previously married, but was legally divorced from his former wife at the time of his marriage to the mother of these applicants.

The residence of Stephen D. Alexander, who is a minor, is presumed to have been the same as that of his father, who has been a resident of the Cherokee Nation all his life, up to and including the date of the application herein.

The evidence further shows that the said Robert L. Alexander died on September 1, 1901.

It is, therefore, the opinion of this Commission that Stephen D. Alexander should be enrolled as a citizen by blood of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered; and it is further ordered by the Commission that the application for the enrollment of Robert L. Alexander should be, and the same is hereby, dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby
Acting Chairman.

T. B. Needles
Commissioner.

Dated at Muskogee, Indian Territory, [illegible]
Commissioner.
this JAN 28 1905

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-335.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, January 29, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 28, 1903, granting the application of Elmer H. Alexander for the enrollment of his minor child, Stephen D. Alexander, and dismissing his application for the enrollment of his minor child, Robert L. Alexander, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-6.

Grove I.T.
2/22 1902

W. H. Hastings

Muskogee I.T.

find enclosed sub signed I
Will be there on that date if
passable I recived notice from
the Dawes com that they would
hear application on Feb 25 1902
for puting my children names on
the role and they wanted a
Birth certificate of Stephen D
Alexander I sent them one some
time ago and will send them
another one as soon as passable
Robert L. Alexander is dead he
died Sept 1 1901 Stephen D
Alexander is still living so you
can explane it to the commisson

Yours Respt
Elmus H Alexander

Decision

IN THE MATTER OF THE APPLICATION OF

Robert L. Alexander

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A - Original testimony - September 18, 1900
B - Mem° of application " 18, 1900
C. Birth affidavit - Robert L. Alexander
D - Marriage Certificate
E - Certified copy of decree of divorce
F Birth affidavit Stephen D Alexander
G

H Notice of final consideration
H Order closing testimony, Feb. 25, 1902
I Supt's + order closing test 2/25/12

See Jacket 2

Death affidavit, Robt. L. Alexander

Cancelled and [illegible] to Cherokee [illegible]

Cher D 336

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 18th, 1900.

IN THE MATTER OF THE APPLICATION OF Arch W. Thomas, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A Arch W. Thomas.
Q How old are you? A Fifty seven.
Q What is your Postoffice? A Chelsea.
Q What district do you live in? A Coowescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood or intermarriage? A By blood.
Q What degree of blood do you claim? A One eighth.
Q For whom do you apply for enrollment? A Myself, wife and three children.
Q How long have you lived in the Cherokee Nation? A I was born a Cherokee citizen, and lived here ever since.
Q What is the name of your father? A T. C. Thomas.
Q Is he living? A No sir.
Q The name of your mother? A Elizabeth Hawkens., at her death.
Q She is not living? A No sir.
Q What is the name of your wife? A Mary Jane Thomas.
Q White woman or Indian? A White woman.
Q What was her name when you married her? A Rippetoe.
Q When did you marry her? A Some time in 1883.
Q Have you a certificate of marriage? A Yes sir.
Q Your wifes father and mother are white persons, are they?
A Yes sir.
Q Have you been living with you wife ever since you married her?
A Yes sir.
Q Is she living now? A Yes sir.
Q What are the names of your children? A Fred Thomas.
Q How old is he? A Seventeen.
Q The name of the next one? A Laura J. Thomas.
Q How old? A Fourteen.
Q What is the name of the next one? A Lillie Bell Thomas.
Q How old? A Eleven past.
Q Next one? A That is all.
Q Are these children all living and living with you at this time?
A Yes sir.

The applicant presents a satisfactory certificate of marriage between himself and Miss Mary J. Rippetoe, a citizen of the United States, in the early part of the year 1883.

(1896 Roll, Page 545, #5206, Arch W. Thomas, Delaware District)
(1896 Roll, Page 590, #526, Mary Jane Thomas, Delaware ")
(1896 Roll, Page545, #5207, Fred Thomas, Delaware District)
(1896 Roll, Page 545, #5208, Laura J. Thomas, Delaware Dist)
(1896 Roll, Page 545, #5209, Lillie B. Thomas, " ")

Q Are these your children? A Yes sir.
Q By your wife, Mary J. Thomas? A Yes sir.
Q Are they all living and living with you at this time?
A Yes sir.

Alex Copeland, being called and sworn, testified as follows:
Q What is your name? A Alex Copeland.
Q What is your age? A Sixty.
Q Postoffice? A Fairland.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir
Q Do you know Arch W. Thomas? A Yes sir.
Q Do you know whether he is a recognized citizen of the Cherokee Nation? A Yes sir.
Q And he is now? A Yes sir.
Q Does his name appear upon the authenticated roll of 1880?
A I do not know., they say his name was scratched off.

Q Where was he born? A Illinois District.
Q Cherokee Nation? A Yes sir.
Q What is the name of his mother? A Elizabeth Thomas.
Q A Cherokee citizen by blood? A Yes sir.
Q What is the name of his father? A Thomas N. Thomas.
Q A Cherokee citizen by blood? A No sir; white man.
Q Are they both dead? A Yes sir.
Q Do the names of his father and mother appear on the authenticated roll of 1880? A No sir; they died before the roll of 1880.
Q Is your name on the roll of 1880? A Yes sir.
Q Is this man a brother of yours? A A half brother.
Q The same father? A No sir; the same mother.
Q Your mother was a white person, was she not? A No sir.
Q Was she an Indian by blood? A Yes sir.

The name of Arch W. Thomas appears upon the census roll of 1896, and the name of his wife, Mary J. Thomas also appears upon the said roll. He presents a certificate that he was married to one, Mary J. Rippetoe, a citizen of the United States in the early part of the year 1893. He avers that he has three children, whose names, Fred., Laura J., and Lillie Bell, appear on the census roll of 1896.

He offers testimony, as specified in the testimony, because his name does not appear upon the authenticated roll of 1880, nor that of his father or mother. And he presents no certificate of admission from the authorities of the Cherokee Nation; the said Arch W. Thomas, his wife, Mary J., and his children, Fred, Laura J. and Lillie Bell Thomas will be placed upon a doubtful card, and final decision as to the application for the enrollment of himself and family will be suspended.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Graves

Subscribed and sworn to before me
this 20th day of September, 1900.

C H Ho

COMMISSIONER.

No 336

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 25th, 1900.

SUPPLEMENTAL PROCEEDINGS
IN THE MATTER OF THE APPLICATION OF ARCH THOMAS FOR ENROLLMENT
DOUBTFUL CARD NO. 336.

JESSE A. THOMAS, being sworn and examined by Commissioner T. B. Needles, testified as follows.

Q What is your name? A Jesse A. Thomas.

Q What is your age? A Forty eight years old.

Q What is your post office address? A Vinita.

Q What district do you live in? A Cooweescoowee.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Do you know Arch Thomas? A I ought to know him; he is a half brother of mine.

Q I didn't ask you if you ought to know him. I asked you if you did.

A Yes, sir. I know him.

THE APPLICANT: Tell him now how my name came to be erased.

MR. HASTINGS: (Representative of Cherokee Nation)

Q Do you know what Arch Thomas's citizenship is, whether he is a Cherokee or not? A Yes, sir; he is a Cherokee.

Q Do you know whether he was living here in 1880 or not? A Yes, sir.

Q Do you know whether he was enrolled in 1880 by the census takers? A Yes, sir; he was enrolled in my house.

Q Were you present? A Yes, sir.

Q Do you know why his name was stricken from the roll afterwards? A John Hicks took his name as a Cherokee by blood. When he got here to Vinita Dick Timberlake looked over the roll and he said he was a white man, that me and him was full brothers and had his name scratched out.

Q Are you Arch Thomas' full brother? A We are half brothers.

Q You have a divverent mother and the same father? A Yes, sir.

Q And your father and mother are white? A Yes, sir.

Q His mother was a Cherokee? A Yes, sir.

Q She is a recognized citizen of the Cherokee Nation? A Yes, sir.

Q By blood? A Yes, sir.

Q And he has always been a recognized citizen of the Cherokee Nation by blood? A Yes, sir.

Q And was at that time? A Yes, sir.

Q He has lived here continuously since that time until now? A Yes, sir.

THE COMMISSIONER:

Q How do you know he is a recognized citizen of the Cherokee Nation by blood? A They put him on as a Cherokee at my house, and he was on the rolls and his mother was a Cherokee.

Q What degree of blood was his mother? A One-fourth is what I was always taught. She was my step mother.

Q Did his mother die before 1880? A Yes, sir.
Witness excused.

---o---

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this supplemental hearing of the above mentioned application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm S Meek

Subscribed and sworn to before me this 10th day of October A. D. 1900.

C Meek
Commissioner.

10 336

"R"

Cherokee D 336

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Arch W. Thomas for the enrollment of himself, wife and children as Cherokee citizens.

Appearances:
Applicant in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter dated February 6,1902, that his application would be taken up for final consideration by the Commission on the 25th day of February,1902; he this day appears in person.

ARCH W. THOMAS, being sworn and being examined testified as follows:
BY COMMISSION:
Q What is your name? A Arch W. Thomas, my full name is Arch Wilson Thomas.
Q How old are you? A I am 47 now.
Q What is your post-office address? A Chelsea, I. T.
Q You are an applicant before this Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.
Q Is there any statement you desire to make relative to your enrollment? A Why, I could make one but I don't know that it would be worth anything; I can state who my guardian was and so on, but I-
Q Do you submit the case to the Commission for final consideration? A Yes sir, I will.

BY COMMISSION: The applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

Cherokee D 326

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Arch W. Thomas for the enrollment of himself and his minor children Fred, Laura J. and Lillie Bell Thomas, as citizens by blood, and for the enrollment of his wife Mary Jane Thomas, as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 18, 1900, Arch W. Thomas appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself and his three minor children Fred, Laura J. and Lillie Bell Thomas, as citizens by blood, and for the enrollment of his wife Mary Jane Thomas, as a citizen by intermarriage of the Cherokee Nation. Thereafter, on September 25, 1900, at Vinita, Indian Territory, supplemental proceedings were had in the matter of this application, and again on February 28, 1902, at Muskogee, Indian Territory, there was additional testimony taken in the matter of this application.

The evidence in this case shows that Arch W. Thomas is 57 years of age, was born and reared and has lived in the Cherokee Nation all his life. He is a citizen by blood, and was married, in accordance with the laws of the Cherokee Nation, in the year 1883, to one Mary Jane Rippetoe, a white woman. Arch W., Fred, Laura J. and Lillie Bell Thomas are identified on the Cherokee Strip Payment Roll of 1894, and on the Cherokee Census Roll of 1896. Mary Jane Thomas is identified on the Cherokee Census Roll of 1896. The testimony in this case shows that the mother of Arch W. Thomas was a citizen of the Cherokee Nation, but died prior to 1880. His father was a white man and also died

prior to 1880. Alex Copeland, a maternal half brother, is identified on the Authenticated Tribal Roll of 1880.

The authority of the Commission herein is defined in Par. 1, Sec. 21, of the Act of Congress, June 28, 1898. (30 Stats., 495).

It is therefore the opinion of this Commission that Arch W. Thomas and his minor children Fred, Laura J. and Lillie Bell Thomas, are lawfully entitled to be enrolled as citizens by blood, and that his wife Mary Jane Thomas, is lawfully entitled to be enrolled as a citizen by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be granted, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

James Bixby.
Acting Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this JUN 9 - 1907

DEC 19 1908

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cher. D-836.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of Arch W. Thomas et al for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the persons above named as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Yours truly,

Tams Bixby
Acting Chairman.

Encl. D-836.

Arch W. Thomas et al

Transferred to Cherokee 9562.

Cher D 337

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 19th, 1900.

IN THE MATTER OF THE APPLICATION OF CHARLES A. MITCHELL FOR THE ENROLLMENT OF HIS WIFE, MATTIE J. MITCHELL, AND CHILDREN, AS CHEROKEE CITIZENS. SUPPLEMENTAL PROCEEDINGS.

Charles H. Preston, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q What is your name, please? A Charles H. Preston.

Q How old are you? A Fifty-five.

Q What is your post office? A Fairland.

Q How long have you lived in the Cherokee Nation? A Thirty years.

Q Do you know Mattie J. Mitchell? A Yes, sir; I knew her from the time she was a small child.

Q What was her maiden name? A Jones. Her moter's name was Jones, and of course her maiden name was Jones.

Q Was she ever called Lamar? A Yes, sir.

Q What was her father's name? A Her father's name was White,--it must have been for it was old man Pollards grand child---

Q (interrupting) Hold on for we are getting that mixed up.

Q What was the name of the father of that woman Mattie J. Mitchell? A Lamar,--William Lamar.

Q Very well, now William Lamar is dead?

A Yes, sir.

Q About how long has he been dead?

A He must have been dead about sixteen years. The girl was just a child when he was killed.

Q Well, he has been deadlonger than that I think, according to the roll. Now, this woman Mattie J Mitchell's mother, was Lamar's wife, wasn't she, at one time? A Yes, sir.

Q And then when Lamar died she married again, didn't she?

A Yes, sir.

Q What was the name of the man she married? A Davis.

Q You just now said Jones. I want to know the man she first married after Lamar. Was it Jones?

A No, it was Jeff Davis.

Q After that she married anun named Jones. A No, sir.

Q You said that two or three times.

A Yes, sir; she married a nemb the name of Jones.

Q One time or another? A Yes, sir.

Q Whether she was on the roll as a Jones or a Davis you are satisfied she was at one time a Lamar? A Yes, sir.

Q And that she is the mother of this woman? A Yes, sir.

Q You have got no doubt about that have you?

A No, sir.

Witness excused.

THE COMMISSIONER: This supplies the needed information, and when this doubtful card is taken up the application will be approved.

The undersigned being duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in the above mentioned application, and that the foregoing is a correct and complete transcript of

his stenographic notes taken at the time and in the supplemental hearing above referred to.

Subscribed and sworn to before me this 28th day of September A.D. 1900.

Commissioner.

D 337

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I. T. September 18th, 1900.

IN THE MATTER OF THE APPLICATION OF CHARLES A MITCHELL, FOR THE ENROLLMENT OF ~~XXXXXX~~ HIS WIFE AND CHILDREN AS CHEROKEE CITIZENS.

The said Charles A. Mitchell, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give me your full name, please.
A Charles A. Mitchell.
Q How old are you? A Twenty-five.
Q What is your postoffice? A Afton.
Q What district do you live in? A Delaware.
Q Who do you want to have put on the roll? A Just my wife and children.
Q How many children? A Two.
Q Is your wife a Cherokee by blood? A Yes, sir.
Q What is your wife's name at this time? A Mattie J. Mitchell
Q How old is she? A Twenty years old.
Q When did you marry her? A In 1896.
Q What was her name when you married her? A Lamar.
Q Was that her maiden name? A Yes, sir. Mattie Lamar.
Q Did you have a certificate of your marriage? A Yes, sir.
THE COMMISSIONER: The applicant presents a Cherokee license showing that he was licensed by the Clerk of Delaware District on November 3rd, 1896, to Marry Miss Mattie J. Lamar, and the certificate shows that he was married by the Rev. M. L. Scruggs to her on November 25th, 1896. These papers are filed herewith.
Q What district was your wife in in 1880 A Delaware.
Q She is on the roll of 1880 is she? A I think so; I could not say for certain.
Q In 1896 what district was she in? A Delaware.
Q Were you married before the roll was made? A No, sir; I don't remember when it was made.
Q What is the name of her father? A William Lamar.
Q Cherokee or white man? A Cherokee.
Q Dead or alive? A Dead.
Q How long has he been dead? A About twenty years ago. He died before she was born, or the year she was born.
Q The name of her mother? A Her mother's name was Margaret Lamar.
Q Cherokee or white woman? A Cherokee.
Q Dead or alive? A Dead.
Q How long has she been dead? A I couldn't say as to that.
Q She has been dead twenty years has she? A No, sir; I think not.
Q Give me the names of the children, please.
A Ott W.
Q How old is that child? A Three years old.
Q The next? A Lee A. One year old. I expect her mother will be on the roll of 1880 as Margaret Jones.
1880 Roll, page 373, No. 684, Margaret Jones, Flint District, Native.
1896 Roll, page 494, No 1796, Mattie Jane Lamar, Native.

Q What proportion of Cherokee blood has your wife? A Why, so about one eighth, I reckon.

Q Have you got somebody here who knew her mother? A I don't know that I have. No, sir.

THE COMMISSIONER: The applicant applies for the enrollment of his wife and two children. His wife is identified on the roll of 1896 under her maiden name. The marriage license and certificate filed herewith establish the change of name. She is perhaps too young to have been on the roll of 1880, and is not found on that roll. It is claimed that she is the child of a woman enrolled in 1880 as Margaret Jones who is now dead. The claim is made that the applicant's wife is one eighth Cherokee. It is desired that responsible personal testimony be brought to establish the fact that this Martha Jones was the mother of the applicant's wife, and until further testimony is provided, this application will be placed upon a doubtful card. When the commission is supplied with the proper certificates of the birth of the two children, they also, will be listed with their mother upon a doubtful card.

The applicant is excused.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in the above mentioned application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm. S. Meskean

Subscribed and sworn to before me this 27th day of September A. D. 1900.

J. B. Milam

Commissioner.

D 337

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900

ACTING CHAIRMAN.

CHEROKEE D 339 ats

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Mattie J. Mitchell, et.al. for enrollment as Cherokee citizens.

SUPPLEMENTAL STATEMENT.

There was filed with this Commission on the 18th day of September, 1900, affidavit of birth duly executed on the fourth day of September, 1900, from which it appears that Ott W. Mitchell was born to Mattie J. Mitchell on the 21st day of October, 1897, and that Lee A. Mitchell was born to said Mattie J. Mitchell on the 19th day of October, 1899, and that both children were living at the date of the execution of said affidavits.

The same have been approved and filed with this Commission.

It is directed that copies of this statement be filed with the testimony in the above case.

Commissioner.

Dated at Muskogee, Indian Territory,
this firstday of March, 1908.

FILED
MAY 23 1902
ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Mattie J. Mitchell and her minor children Ott W. and Lee A. Mitchell as citizens by blood of the Cherokee Nation.

D E C I S I O N.

--oOo--

The record in this case shows that on September 18, 1900, Charles A. Mitchell appeared before the Commission at Vinita, Indian Territory, and then and there made application for the enrollment of his wife Mattie J. Mitchell and his minor children Ott W. and Lee A. Mitchell as citizens by blood of the Cherokee Nation. On September 18, 1900, further proceedings were had in the matter of this application.

The evidence in this case shows that Mattie J. Mitchell is the daughter of one Margaret Lemar, who is identified on the authenticated tribal roll of 1880 as Margaret Jones, she having been at one time married to a man by the name of Jones. Mattie J. Mitchell is an orphan; has resided in the Cherokee Nation all her life and is identified on the Cherokee Census roll of 1896 as Mattie J. Lemar. She was married November 25, 1896 to Charles A. Mitchell, a non-citizen, and the children Ott W. and Lee A. Mitchell are the result of such marriage.

The authority of the Commission herein is defined in Paragraph 1, Section 21, of the Act of Congress, June 28, 1898, (30 Stats., 495).

It is therefore the opinion of the Commission that Mattie J. Mitchell, Ott W. Mitchell and Lee A. Mitchell are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of

Indians in Indian Territory, and that the application for their enrollment as such should be granted, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this SEP 20 1902

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Cherokee-R-337.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, April 15, 1902.

W. W. Hastings, Esq.,
Atty for Cherokee Nation,
Muskogee, Indian Territory,

Sir:

You are hereby advised that the Commission's decision of February, 14, 1902, rejecting the application of John H. Hilton, Cherokee No. R 337, for enrollment as a citizen of the Cherokee Nation was affirmed by the Secretary of the Interior on the 2nd day of April, 1902.

Very respectfully,

Acting Chairman.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYERSWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 337.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of Charles A. Mitchell for the enrollment of his wife, Mattie J. Mitchell, and his two minor children, Ott W. and Lee A. Mitchell, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 80.

IN THE MATTER OF THE APPLICATION OF

Mattie J. Mitchell et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 18. 1900
B. Mem° of application " 18. 1900
C. Marriage License
D. " Certificate
E. Birth affidavit - Otto W. Mitchell
F. " " " Geo. A. "
G. Supplemental testimony September 18. 1900

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DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 16th, 1900.

IN THE MATTER OF THE APPLICATION OF Henry Grubb, and children, for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A Henry Grubb.
Q What is your age? A Thirty four.
Q What is your Postoffice? A Echo.
Q What District do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood? A No sir/
Q By intermarriage? A Yes sir.
Q For whom do you apply for enrollment? A Myself and children.
Q Your father and mother are non citizens? A Yes sir.
Q What is the name of your wife? A Crittenden was her name.
Q Her first name? A Minnie.
Q Is she living? A Yes sir.
Q When were you married to her? A In 1890.
Q Have you a certificate of marriage? A No sir.
Q What is the name of her father? A Jim Crittenden.
Q Is he living? A Yes sir.
Q What is the name of her mother? A Rook.
Q Is she living? A No sir.
Q What are the names of your children? A Earl Grubb.
Q How old? A Nine years old.
Q Next one? A Hiram Grubb.
Q How old is Hiram? A He is seven.
Q The name of the next one? A Bertha Grubb.
Q How old is Bertha? A Five.
Q What is the name of the next one? A That is all.
Q Are these children all living, and living with you? A Yes sir.
Q You say you were married in 1890? A Yes sir.
Q Are you living with your wife? A No sir.
Q Did she abandon you? A I took her away from my home.
Q Turned her loose and told her you did not want her any more?
A Yes sir.
Q Why did you do that? A From her conduct.

By Mr. W. T. Hutchings, Cherokee Representative:
Q How long after you were married, did you do that, Mr. Grubb?
A About seven years, I think.
Q What sort of conduct had she shown towards you during that seven years? A It was adultery.
Q Have you ever sued her for divorce? A Yes sir.
Q Did you prove that in Court? A I never alleged that; I alleged cruel treatment.
Q You got a divorce for a woman's treating you cruelly?
A Yes sir.
Q What Court? A Going Snake, Cherokee ~~Nation~~ Court
Q When you got your divorce, you never alleged your real grounds for it? A No sir.
Q As a matter of fact, she never did treat your cruelly, except as to adultery with another man? A Yes sir.
Q How? A Several different ways: She was jealous.
Q Was she jealous of you? A Yes sir.
Q And she was the one that committed adultery? A Yes sir.
Q Did you give her any cause for jealousy? A No sir.
Q On account of being jealous of you, she went off with another fellow? A Yes sir.
Q There in your house, did she commit adultery? A Yes sir.

By the Commission:
Is Minnie Crittenden the mother of these children? A Yes sir.
Q Is she a Cherokee citizen by blood? A Yes sir.
Q What degree of blood has she? A About one eighth, or one sixteenth.
Q Are you her first husband? A Yes sir.
Q Are these children in your possession? A Yes sir.

Q Your custody? A Yes sir.
Q Have you married again? A No sir.
Q Has she married since? A No sir; not that I know of.

(1880 Roll, Page 416, #419, Malinda Crittenden, Going Snake)

Q You have no certificate of marriage? A No sir.
Q Any proof of marriage? A There is one man here that saw my lisecnce.
Q Did not see you married? A No sir.
Q Who married you? A Jack Wright.
Q Is he living? A No sir.

(1896 Roll, Page 822, #84, Henry Grubb, Going Snake District)
(1896 Roll, Page 752, #948, Minnie Grubb, Going Snake District)
(1896 Roll, Page 752, #949, Earl Grubb, Going Snake District)
(1896 Roll, Page 752, #950, Hiram Grubb, Going Snake District)
(1896 Roll, Page 752, #951, Bertha Grubb, Going Snake District)

The name of Hiram Grubb appears upon the census roll of 1896; He avers that he was married to one, Minnie Crittenden, a Cherokee citizen by blood in the year 1890, and the name of Minnie Crittenden is found on the authenticated roll of 1880, as Malinda Crittenten: He avers that as a result of said marriage, he has three children, Earl, Hiram and Bertha appear on the census rolls of 1896. He also testifies that he is not living with his wife, Minnie, but has secured a divorce from her in the Cherokee Courts. He presents no marriage lisecnce or certificate to said Minnie C Crittenden, and besides, presents no satisfactory cause as to the separation of himself and wife, Minnie .

The name of Henry Grubb, consequently will be placed on a doubtful card, and final judgment as to his enrollment as an intermarried Cherokee will be suspended: The names of his children, Earl, Hiram and Bertha, by their mother, Minnie Grubb, will be only listed for enrollment by this Commission as Cherokee citizens by blood.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Brown

Subscribed and sworn to before me
this 20th day of September, 1900.

G T Cox

COMMISSIONER.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 19, 1900.

In the matter of the application of Henry Grubb, D card 3381, Minnie Crittendon being sworn by Commissioner Breckinridge, testified as follows:

By Mr. Hastings, Cherokee Representative:
Q What is your name? A Minnie Crittendon.
Q What is your postoffice? A Whitmire.
Q What is your age? A 26 .
Q What is your maiden name? A Crittendon.
Q Have you been married? A Yes.
Q What was your husband's name? A Henry Grubb.
Q When were you married to him? A '90.
Q How long did you live together as husband and wife? A 8 years.
Q Then you separated two years ago- in '96? A We separated three years ago -- in '97.
Q Where were you living at the time of your separation? A Down in Goingsnake.
Q Did he leave you or you leave him? A He left me.
Q Did you have a home? A Yes.
Q Whose was it? Yours or his? A It was mine.
Q Where did he go to from your place? A He sold out there and moved to Echo in Delaware district. I have a place in Cooweescoowee district.
Q Have you since remarried? A No sir.
Q Has your husband remarried? A No sir.
Q Whatwas the cause of that separation? A We just disagreed.
Q Did you have any disturbances at home prior to your separation?
A Some .
Q Have you any children? A yes.
Q You enrolled them? A I enrolled one and he enrolled three.
Q Was there any divorce proceedings instituted in this case? A Yes.
Q Who brought the suit? A We did.
Q In what court? A In the Cherokee court.
Q Where? A In Goingsnake.
Q Did you go there and answer the case? A I went there and gave him a divorce.
Q The divorce was gotten in his name? A yes.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

P O Melvonald

Subscribed and sworn to before me this 21st day of September, 1900.

C R Breckinridge

Commissioner.

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

"R"

Cherokee D 338

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Henry Grubb for enrollment as a Cherokee citizen.

Appearances:
Applicant in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 6,1902, that his case would be taken up by the Commission for final consideration on the 25th day of February 1902. Receipt has been acknowledged of the Commission's letter and applicant this day appears in person.

HENRY GRUBB, being first duly sworn and being examined testified as follows:
BY COMMISSION:
Q What is your name? A Henry Grubb.
Q How old are you? A 38.
Q What is your post-office address? A Nuho.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.
Q You desire to make any other statement relative to your case? A No, I just submit the case to the Commission.

BY COMMISSION: The applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

M.D.Green being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the f regoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, October 20th, 1902.

In the matter of the application of Henry Grubb for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

Supplemental to D-338.

HENRY GRUBB, being duly sworn, testified as follows:

Examination by the Commission.

Q. What is your name? A. Henry Grubb.
Q. What is your post office? A. At the present time it is Hudson.
Q. How old are you? A. About 35.
Q. Are you a white man? A. Yes, sir.
Q. Are you claiming the right to be enrolled as a Cherokee citizen by intermarriage? A. Yes, sir.
Q. What is the name of the wife through whom you claim citizenship?
A. Minnie Crittenden.
Q. Her name was Minnie Crittenden when you married her?
A. Yes, sir.
Q. When were you married to her? A. In '90.
Q. Were you married under a Cherokee marriage license?
A. Yes, sir.
Q. Is Minnie your first wife? A. Yes, sir.
Q. Are you her first husband? A. Yes, sir.
Q. Is your wife living? A. No, sir.
Q. When did she die? A. In the spring.
Q. Which spring? A. This spring.
Q. This last spring? A. Yes, sir; I think about January or February.
Q. Was she a Cherokee by blood? A. Yes, sir.
Q. Did you live with her from the time you married her up until the time she died? A. No, sir.
Q. How long did you live with her? A. Until about '97.
Q. Then you separated? A. Yes, sir.
Q. What was the cause of the separation? A. Her cruel treatment toward me.
Q. What did she do to you? A. Committed adultery while I was living with her.
Q. With who? A. J. A. Nolan.
Q. Did she have any children by that man? A. Supposed to, yes. She had a child. Said it was his.
Q. Did she ever admit it was his? A. Yes, sir.
Q. You know it wasn't yours? A. I don't know that it wasn't. She said it wasn't.
Q. Did you sue for a divorce? A. Yes, sir.
Q. Did you charge adultery? A. No, sir.
Q. What did you charge? A. Cruel treatment.
Q. Was that suit tried? A. I got the divorce.
Q. Was it tried? Did she appear? A. She never appeared.
Q. Was there any evidence taken in the case? A. No, sir.
Q. What court was it in? A. Cherokee court.
Q. Now, when you found out she was guilty of adultery what did you do, charge her with it? A. Yes, sir.
Q. What did she say? A. She owned up to it.
Q. What did you do? A. We didn't live together.
Q. Did you leave her? A. I took her to her father's.
Q. Tell her father what the trouble was? A. I didn't; no, sir.
Q. You have never lived together since that time? A. No, sir.
Q. Have you married again? A. No, sir.

Q. How long have you lived in the Cherokee Nation, ever since you were married to your wife? A. Yes, sir; a long time before.
Q. You haven't lived anywhere else? A. No, sir.
Q. You made application for yourself and three children? A. Yes, sir.
Q. You didn't apply for your wife? A. No, sir.
Q. Are these three children living now? A. Yes, sir.
Q. The oldest is named Earl? A. Yes, sir.
Q. Hiram? A. Yes, sir.
Q. Bertha? A. Yes, sir.
Q. Have they lived in the Cherokee Nation ever since they were born? A. Yes, sir.
Q. Have they been living with you? A. Yes, sir; right along.
Q. You have never lived anywhere else but the Cherokee Nation since you were married to your wife Minnie? A. No, sir.

It is ordered that copies of this testimony be filed with the case of Earl Grubb, et. al., Cherokee #2976.

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Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 16th day of December, 1902.

B O Jones
Notary Public.

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Cherokee-D-338.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, March 8, 1905.

In the matter of the application for the enrollment of Henry Grubbs as a citizen by intermarriage of the Cherokee Nation.

Henry Grubbs, being duly sworn, testified as follows:

Q. What is your name? A. Henry Grubbs.
Q. What is your post office address? A. Hudson, I.T.
Q. What is your age? A. 38.
Q. Are you a white man? A. Yes sir.
Q. You claim no right as a Cherokee by blood? A. No sir.
Q. Do you claim as an intermarried citizen? A. Yes sir.
Q. Through whom do you claim? A. I don't understand what you mean.
Q. What was the name of your wife? A. Minnie Crittenden.
Q. Is she a Cherokee by blood? A. Yes sir.
Q. When were you married? A. We were married in 1890.
Q. Was she your first wife? A. Yes sir.
Q. Were you her first husband? A. Yes sir.
Q. Where were you married? A. In the Clerk's office in Going Snake District.
Q. Cherokee Nation? A. Yes sir.
Q. Did you have a tribal license? A. Yes sir.
Q. Have you lived together ever since? A. No sir.
Q. Were you divorced from her? A. Yes sir.
Q. When? A. In '97, I believe.
Q. Who obtained the divorce, you or she? A. I did.
Q. In the tribal courts? A. Yes sir.
Q. Since then have you remarried? A. No sir.
Q. Where have you lived since your marriage? A. In the Cherokee Nation.
Q. What did you say your wife's name was? A. Minnie Crittenden
Q. Is she dead? A. Yes sir.
Q. When did she die? A. She has been dead 3 or 4 years.
Q. Have you any children? A. Yes sir.
Q. What are their names? A. Earl, Harrold, Bertha.
Q. Do they live with you? A. Yes sir.

(The children of the applicant are identified upon Field card 2976, and their names have been placed upon the final roll, approved by the Secretary of the Interior.)

Q. Were you appointed guardian for these children? A. Yes sir.
Q. Were you given the custody of them when you got the divorce? A. Yes sir.

WITNESS EXCUSED.

Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the above entitled case on the 8th. day of March, 1905, and that the above and foregoing is a full and complete transcript of her notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 8th. day of March, 1905

J. Blumpell

Notary Public.

IN THE MATTER OF THE APPLICATION OF

Henry Grubb

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 18, 1900
B - Memo of application " 18, 1900
C - Supplemental testimony - " 19, 1900
D - Certified copy of Marriage License
E - Certified copy of decree of divorce
F - Notice of final consideration

Order closing testimony, Feb. 25, 1902.

See Docket 2

OCT 12 1907

James W. Fleming

D 339

IN THE MATTER OF THE APPLICATION OF

James W. Fleming et al.

FOR ENROLLMENT AS

CHEROKEE CITIZENS

D 339

IN THE MATTER OF THE APPLICATION

James W. Fleming et al

FOR ENROLLMENT

CHEROKEE CITIZEN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 4, 1899.

D. 378
D. 379

In the matter of the application of Perry H. Beason for enrollment as a Cherokee by blood.

In the matter of the application of James W. Fleming et al. for enrollment as Cherokees.

Additional testimony.

Henry L. Porter, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your name, please? A Henry L. Porter.
Q Give me your age? A 51.
Q Your post office? A Seneca, Mo.
Q Do you want to give additional testimony in an application that has been made? A Yes, sir.
Q Whose application? A Mr. Beason's.
Q What is his full name? A I don't know that I remember his full name, P. H. Beason I believe.
Q What testimony do you want to give in connection with that case; you want to offer some additional testimony in regard to the application of P. H. Beason? A Yes, sir, I understand he wants to prove by me that when his father returned from out west, he wants to prove by me the state of his health; I was his physician.
Q Do you know when he returned? A I don't know exactly when he returned, but my first professional visit was March 29, 1886; I had known him then for a few months before.
Q Were you his physician at that time? A Yes, sir.
Q What was the condition of his health? A His health was very bad, he had very bad lungs.
Q Did he live very long after his return? A He lived probably 3 years.
Q Do you know when he left here? A No, sir, I only know about his return, his condition then.
Q Did you understand that he had been away for the benefit of his health? A That is what he told me.
Q You understand he didn't move away but had gone away for his health? A Yes, sir, but it had proved a failure and he had come home.
Q He died pretty soon after? A He died on the 21st of September, 1887, I believe.
Mr. J.B.Leach, representative of the Cherokee Nation: From what disease did he die? A It has been quite a long time, I would hate to be positive, but his lungs were the trouble, he had hemorrhage from the lungs, the first visit I was called to see him he had a hemorrhage.
Q Do you think he died from consumption? A Well, it was from diseased lungs, yes, sir.
Q Do you think this was the course of his leaving this country, - having bad lungs here? A It was a very reasonable cause, doctors are sending people out to the western country for their health.
Q Was there any statement made in your presence at the time he left here why he left here? A He told my why he left here, he told me for the benefit of his health.
Q Did he tell you he went out under the doctors instructions?
A I wouldn't be positive as to that, all I remember is he frequently talked to me about his visit out there for his health, and it proved a failure.
Q Did he tell you it had got so he couldn't live in that country and he had got to die and he would like to die in this country?
A He told me he was growing worse instead of better out there.
Q And he concluded he had rather come here and die? A Yes, sir.
Q From the same disease that he left here with, that your understanding? A Yes, sir.
Q Was there anything said at any time while you were attending him as a physician as to why he wasn't enrolled on the roll of 1880?

A No, sir, I never remember anything about that.
Q Did he tell you at any time during his last illness that he was living in Colorado or any other part of the country in 1880? A He told me that he had went out west for his health.
Q During what time? A Well, that was previous to the time that I began treating him, previous to March 20, 1880.
Q You never heard him make any statement as to when he moved away from here and went to the west? A No ! that I remember.

C. H. Preston, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your name, please? A C. H. Preston.
Q Your age? A 55.
Q Your post office? A Fairlands.
Q You want to give some additional testimony here in a case?
A Yes, sir, I can.
Q What are you here for? A I was to give some testimony in the case of Mr. Beeson.
Q This relate to the father of Perry H. Beeson? A Yes, sir.
Q And also in the application made to James M. Fleming et al.?
A Yes, sir.
Q You want to say something about the father of Perry Beeson being absent about 1880, do you? A Yes, sir.
Q Why was he out of the Cherokee Nation in 1880? A His lungs were affected and I advised him to go to the mountains.
Q You a doctor? A Yes, sir.
Q You sent him out as a physician? A Yes, I sent him out there and he remained there and regained his health and then came back.
Q How long did he stay out there? A About I suppose 7 years.
Q Did he leave his property and effects and all here? A Yes, sir, he left all here.
Q He just went there as a man going on health? A Just going for health.
Q And then when he came back his lungs got into bad condition again very soon? A I don't suppose he was here a year? A
Q Then he died? A Yes, sir.
Mr. J.L.Baughl Are you a licensed doctor in this country?
A I was with the army.
Q You have been licensed to practice medicine in the Cherokee Nation? A Yes, sir.
Q At what time did Mr. Beeson leave the Cherokee Nation? A I don't remember, I didn't make much of a memorandum, about 1878 or 1879.
Q Did you recommend to him that it was necessary for him to leave this country? A Yes, sir.
Commissioner Breckenridge: That has all been brought out in the testimony of this witness.

George Gibeney, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give your name please? A George Gibeney.
Q What is your age? A 48.
Q What is your post office? A Vinita
Q In what district do you live? A Delaware.
Q You are here to give testimony in the applications of Perry H. Beeson and James M. Fleming et al. are you? A Yes, sir.
Q Does this relate to the father of Perry H. Beeson being absent in 1880? A Yes, sir.
Q What do you want to say about it, why was he absent about 1880?
A In 1870 he went to Wyoming.
Q Why did he go to Wyoming? A To improve his health, he thought

it would, in part.
Q He lived in the Cherokee Nation all the time until then? A He was admitted in the Cherokee Nation about 1874 I think.
Q And he went out for the benefit of his health? A That was as I understood it.
Q Did he leave his property back here? A He left his property.
Q And continued to have that property until he came back a few years after? A Yes, sir.
Q And then he died shortly after his return? A Yes, sir, he died just about a year.

F. M. Gonner, being sworn and examined by Commissioner Breckinridge, he testified as follows:
Q Give me your name, please? A F. M. Gonner.
Q Your age? A 49.
Your post office? A Fairland.
Q You are here to give additional testimony in the applications of Perry H. Beason and James W. Fleming at all, are you? A Yes, sir.
Q I mean the father of Perry H. Beason? A Yes, sir, his father.
Q Did you know his father? A Yes, sir.
Q Was he a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Did he live here about 1872 or 1873? A About 1873.
Q He left here about then? A About 1875.
Q Why did he leave, why was it generally understood? A For his health.
Q That the purpose and that purpose alone? A Yes, sir.
Q He didn't dispose of his property? A No, sir.
Q Did he take all his family with him? A Yes, sir.
Q Did he have any minor children? A Yes, sir.
Q How long before he came back, several years? A About three or four.
Q Did he live long after he came back? A No, sir.
Q Was it generally understood that he was just out for the benefit of his health? A Yes, sir.
Q And hasn't abandoned the Cherokee Nation? A Yes, sir, I lived by Mr. Beason there ever since he married and I know that he left his farm and his cattle and part of his household furniture when he went he went to Wyoming, I know he left that much because I lived within two miles of him.
Q And he continued to possess his property and effects during the whole time of his absence? A Yes, sir.
Q And acted like a man who contemplated coming back? A Yes, sir.
Q And did come back? A Yes, sir.
Q And died within a year after he returned? A Yes, sir.
Mr. W. W. Hastings, representative of Cherokee Nation: This boy has lived here for the last fifteen years? A Yes, sir.
Q Continuously? A Yes, sir, I think he has.
Q Been recognized as a citizen here during that time? A Yes, sir.
Q Allowed to vote; has there been any question about his citizenship? A There was part of the time he has been out of here, but since they returned he hasn't been in doubt.
Commissioner Breckinridge: What did he go out for? A His health I suppose.
Q The young man go out for his health? A Yes, sir.
Q Did he ever go into business on the outside as far as you know?
A Not that I know of.
Q Was he considered to have left the Cherokee Nation for good?
A No, sir.
Q Simply on a visit? A Simply on a visit, this young man here his farm and effects is right there by me.
Mr. Hastings: Now he came back in 1883 or 1884 or 1885? A Yes, sir.
Q How long did he remain at when he came back at the time his

father died? A About 8 or 12 months.
Q Then where did he go, when he left and went off somewhere else?
A He died.
Q I mean this young man? A He never remained out very long anywhere.
Q Where did he go? A I don't know.
Q How long has he continued to reside up there this last time?
A I don't know, there hasn't been a twelve months but what I have seen him in the Territory since he returned.
Q Has he been living out? A I can't say whether he lived out or not, there was about 18 months I didn't meet him, only about 18 months I haven't met him in the Territory.
Q Is he married? A Yes, sir.
Q Where did he marry? A I can't tell you.
Q I am trying to get at whether he has been a continuous resident here or not? A There hasn't been twelve months since 1877 that I haven't met him in the Territory.
Commissioner Breckenridge: How long has this young man been living here continuously now as far as you know? A I think about 5 years.
Q Where was he before that? A He has been living here ever since he came from Wyoming I guess.
Q When was that? A I can't say.
Q Somewhere along in the eighties? A Somewhere along in the eighties.
Q Do you think he has been out except for brief intervals since that time? A No, sir.
Q Has he been out frequently? A Yes, sir.
Q Do you know what engaged his attention when he went out? A He went out for his health, he has been going up thereand coming back for the last five years.
Q He would go back to Wyoming? A No, sir, somewhere in Missouri; one question I can answer; there hasn't been a 18 months I haven't met him in the Territory since 1887.

Perry H. Beeson, being sworn and examined by Commissioner Breckinridge, testified:
Q Give me your name? A Perry H. Beeson.
Q Your age? A 25.
Q Your post office? A Vinita.
Q You are the same Perry H. Beeson who made application previously here before the Commission? A I am.
Mr. F.F.Hastings: How old are you? A 25.
Q What was your father's name? A H. V. Beeson.
Q You were born in 1875? A Yes, sir.
Q When did you go out of the Cherokee Nation? A In 1878 I believe.
Q You were three years old? A Yes, sir.
Q When did you return that time? A I can't state just what time I returned then, I returned to live in 1885.
Q How long did you remain here in 1885 when you came back? A I have remained here always except about two months that I was under a physician's care at Kansas City for my health.
Q When you returned in 1885, tell me from that time where you lived, trace your history? A I lived in the Cherokee Nation always.
Q Where did you get your mail? A I have got my mail always in the Cherokee Nation except when I was in Kansas City or Neal, Mo.
Q When did you go to Neal, Mo.? A About three years ago.
Q Have you lived here continuously from 1885 until 1897, which was three years ago? A I did, yes, sir.
Q All the time inside of the Cherokee Nation? A Well, I went to school at Fort Smith.
Q Fort Smith, Arkansas? A Yes, sir.
Q How long did you go to school there? A I went to school about five months I believe.

Perry H. Beaver and James E. Fleming - 5.

Q With the exception of that, which is not material, did you live here continuously from 1893 until 1897? A Yes, sir, I have.
Q You have never temporarily resided out other than that you have stated? A I never moved my family out except once and that was up here to Noel. Mo., and then it was for my health.
Q Except for those two exceptions then you have never resided out of here from 1893 to 1897? A No, sir, never resided a moment.
Q Since 1897 have you resided out of here? A No, sir, except in Noel, Mo., when I was there, after I returned that time I have never been out.
Q When did you return the last time? A When I went to Noel I went in 1899 and was up there two months.
Q That was for your health? A Yes, sir, I stated here during the time.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 5th of October, 1899.

C W Bruce

Commissioner.

N 339

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 18, 1900.

In the matter of the application of Maria L. Fleming for the enrollment of herself and child as Cherokees by blood and her husband as a Cherokee by int marriage; being sworn and examined by Commissioner Dudley, she testified as follows:

Q What is your name? A Maria L. Fleming.
Q How old are you? A I put me down as 50, I don't think I am on the roll.
Q What is your post office address? A Echo.
Q What district do you live in? A Delaware.
Q Are you a Cherokee citizen by blood? A Yes, sir.
Q What degree of blood do you claim? A I don't know for certain, I have been put down 1/8, I think about 1/16.
Q What do you apply for for enrollment? A Myself and one child, I have two, but one is married, and my husband.
Q What is the name of your father? A Thomas Clark.
Q Was a Cherokee citizen by blood? A No, sir, a white man.
Q Is living? A No, sir.
Q What is the name of your mother? A Ann Clark.
Q She living? A No, sir, she died when I was a child.
Q She a Cherokee citizen by blood? A Yes, sir.
Q What is the name of your husband? A James W. Fleming.
Q What is his age? A 43 years old.
Q When were you married to James Fleming? A In 1888.
Q Have you a certificate of marriage? A I haven't it with me.
Q Your husband's father and mother are non citizens? A Yes, sir.
Q He is a white man? A Yes, sir.
Q What is the name of your child for whom you apply? A Edward Beason.
Q How old is Edward Beason? A 14 years old; the other one is married.
Q How does his name happen to be Beason? A He is my first husband's child.
Q When were you married to your first husband? A 26 years ago.
Q Was he a white person, a non citizen? A Yes, sir.
Q Is living? A No, sir, he is dead.
Q Did he die before you married Mr. Fleming here? A Yes, sir.
Q What was your name in 1880? A Beason, but I am not on the 1880 roll.
Q By what right do you claim citizenship? A Because I have lived here all my life, and my husband has the consumption, and we traveled and came west in 1880.
Q Your name is not on the 1880 roll? A No, sir, but on the other rolls it is there.
(Maria L. Fleming on 1880 roll, page 468, No.1117, Delaware dist.)
Q You say your father was name T. Jones Clark; was he a citizen by blood? A No, sir.
Q Your mother's name? A Ann Clark.
Q Was a citizen by blood? A Yes, sir.
Q Her name appears upon the 1880 roll? A No, sir, she died before the war.
(James W. Fleming on 1880 roll, page 572, No. 193, Delaware district. Edward Beason on 1880 roll, page 443, No. 410, Edward B. Beason, Delaware district.)
Q Have you any proof to offer as to your Cherokee citizenship?
A Yes, sir, I can get plenty of it.
Q Your name doesn't appear upon the roll of 1880, and you must prove your name is on the authenticated roll of 1880 or you have been admitted by the constituted authorities of the Cherokee Nation?

Maria L. Fleming - C.

A I was, I have got proof, I went to Tahlequah and had it put on there.

Mr. W. T. Hutchings, attorney for Choctaw Nation: How long did you remain out of the Nation with your first husband? A About seven years.

Q In what state? A Wyoming Territory.

Q Did you leave anything here? A I left all that I had, I had my farm and cattle and horses and plows and some things in the house.

Q And you went there because he had consumption? A Yes, sir, he died there.

Q Did he die there? A No, sir, he died here a year after we came back.

Commissioner Needles: The name of Maria L. Fleming appears upon the census roll of 1896. She avers that she is the daughter of Thomas and Ann Clark, that her mother, Ann Clark, was a citizen by blood, but her name does not appear upon the authenticated roll of 1880; neither does the name of Maria L. Fleming appear upon the authenticated roll of 1860. She avers that she was married to James W. Fleming, a non citizen, in the year 1888, but presents no proof of marriage nor certificate of marriage, and the name of her husband appears upon the census roll of 1896. She avers that she has one son, Edward B. Beason, by a former husband, and the name of Edward B. Beason appears upon the census roll of 1896. Because of the fact that the name of the applicant does not appear upon the authenticated roll of 1880, and she presents no authenticated proof, record or certificate as to her Chickasaw citizenship, and the further fact that she presents no certificate of marriage or proof of marriage as to her husband, James W., final judgment as to the enrollment of the said Maria L. Fleming, her husband as an intermarried citizen, and her son, Edward B. Beason, will be suspended, and they will be placed upon a doubtful and, awaiting proof of marriage and proof as to citizenship.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Subscribed and sworn to before me this the 10th day of September, 1900.

J. T. Needles

Commissioner.

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Cherokee D 339

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of James W. Fleming for the enrollment of himself, wife and step-son as Cherokee citizens.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I. T., attorneys for applicants, and W.W.Hastings, attorney for Cher.Na.

BY COMMISSION: The applicant was notified by registered letter February 6th, 1902 that this case would be taken up by the Commission for final consideration on the 25th day of Febr ary, 1902; he this day appears by his attorneys, Mellette & Smith, of Vinita, I. T.

ALICE CROCKETT, being sworn and being examined testified as follows:
BY MR. MELLETTE:
Q What is your name? A Alice Crockett.
Q Where do you live? A Fairland.
Q What is your age? A 45.
Q Do you know the applicant, Mariah L. Fleming? A Yes sir.
Q What relation is she to you? A Sister.
Q What is your citizenship? A Indian by blood.
Q Are you on the 1880 roll? A Yes sir.
Q As a citizen of the Cherokee Nation? A Yes sir.
Q What is the blood of the applicant, Mariah Fleming, Cherokee or what? A Why it is Cherokee.
Q Are youher older sister? A I am her older sister.
Q And you are recognized as a citizen of the Cherokee Nation? A Yes sir, I am on every roll that has been.
BY MR. HASTINGS:
Q I wanted to ask you where your sister was born? A Beatty's Prairie.
Q What was her maiden name? A Clark.
Q What kin is she to George Clark? A She is no kin, Tom Clark was her father; she is kin to the Thompsons, and the Lynchs; her grandmother was a Lynch.
Q Was she born before the war or since? A Before the war; she is older than I am.
Q Where was she immediately after the war? A Why we went to the Choctaw country.
Q And then come back here right after the war? A Yes sir.
Q Did she come back with you? A Yes sir.
Q When did she marry? A Well I could not tell you; her first man- she was very young when she married, first man she married a full blood, Toy Squirrel.
Q She married a man named Beason didn't she? A Oh Beason, why she married him; they was married here at Fairland.
Q Where was this woman living in 1880 when that roll was made, 22 years ago? A She was in Wyoming; she was traveling for her husband's health.
Q About when did she go there? A I couldn't tell you because I don't know.
Q Your best judgment? A She was there about 5 or 6 years.
Q Where did her husband Beason die? A Fairland, he died, yes he died at Fairland; he taken awful bad and died at Seneca but he was not there but a week.
Q Where did she marry this last husband, Fleming? A Fairland.
Q Has she lived there with him ever since? A Yes sir, living there with him now.

W.M.BELL, being sworn and examined testified as follows:
BY MR. MELLETTE:
Q What is your name? A J. M. Bell.
Q What is your age? A 70.
Q Where do you live? A About five miles from Carey's Ferry, in the Cherokee Nation.
Q Do you know the applicant, Mariah L. Fleming? A Yes sir.
Q What do you know about her as to whether she is a Cherokee by blood or not? A She is a Cherokee.
Q By blood? A Yes sir.
Q You know her people do you and the members of her family? A Yes sir.
BY MR. HASTINGS:
Q You know where they were in 1880? A No sir, I do not; yes I know where the applicant was in 1880.
Q Where? A She was west here in Wyoming or some of those territories.
Q You know how long they stayed out there? A I do not know; her husband was there.
Q You think they stayed as much as 20 years? A No I don't think they did.
Q About how long you think they stayed? A They might have stayed 6 or 8 years, I don't know.
Q 8 or 10 years? A 6 or 8 or 10 years, I don't know.

BERRILLA ROGERS, being sworn and examined, testified as follows:
BY MR. MELLETTE:
Q What is your name? A Berrilla Rogers.
Q Where do you live? A I live at Ogeechee Station, two miles from Fairland.
Q Do you know the applicant, Mariah L. Fleming? A Yes sir.
Q What relationis she to you? A She is an own niece of mine, sister's child.
Q The mother of Mariah Fleming was your sister? A My sister.
Q What was she, Cherokee or white? A Cherokee.
Q Are you yourself a Cherokee now? A Yes sir.
Q Recognized as such? A Yes sir.
Q Then what is the blood of the applicant, Mariah L. Fleming, Cherokee or white? A She is a Cherokee by blood.
MR. HASTINGS waives cross-examination.
BY MR. MELLETTE; I want to file certified copy of a marriage license. (Hands paper to Commission.)
BY COMMISSION: There is offered in evidence by the attorney for the applicant a certified copy of the Cherokee marriage license authorizing the marriage of James Fleming and Mariah Beason, and a certificate showing that they were united in matrimony by Joseph Faulk, Minister of the Gospel, on the 17th day of March, 1889; same is filed herewith.
MR. MELLETTE: This case submitted, and ask for 15 days in which to file brief.
BY COMMISSION: This case is submitted by the attorney for the applicant and the attorney for the Cherokee Nation, to the Commission, and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record. The attorney for the applicant requests and will be granted 15 days in which to file brief, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

D 339 B

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me ths February 27,1902.

Commissioner.

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ACTING CHAIRMAN

Cherc. D-539.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 13, 1902.

In the matter of the application of James W. Fleming et al, for enrollment as Cherokee citizens.
Applicant present in person.

Commission: The applicant in this case was notified by registered letter May 5, 1902, to appear before the Commission at its offices in Muskogee, Indian Territory, on or before May 17, 1902, and introduce such testimony as might be necessary to satisfactorily establish her right to enrollment as a citizen of the Cherokee Nation.

Maria Fleming, being sworn and examined by the Commission, testified as follows:
Q What is your name? A Maria Fleming.
Q How old are you? A 51 years old.
Q What is your postoffice address? A Fairland.
Q You heretofore appeared before the Commission for the making of an application for enrollment? A Yes sir.
Q You are the wife of James W. Fleming? A Yes sir.
Q When were you married to him? A About 1889.
Q Where were you born? A I was born in the Cherokee Nation.
Q How long did you continue to live there after your birth? A I lived at Maysville.
Q In Arkansas? A In the Cherokee Nation; I lived on the Edmondson place.
Q Did you leave the Cherokee Nation during the war? A Yes sir.
Q Where did you go to? A To the Chickasaw Nation.
Q When did you come back? A I don't know that, I stayed there a good little bit though.
Q Where were you living when the roll of 1880 was made? A I was living in Wyoming, my husband's health was bad; we were stopping there.
Q How long were you there prior to the time the roll of 1880 was made? A I don't know, we were out there about seven years; in the meantime we came back here.
Q When did you come back to the Cherokee Nation after you and your husband went to Wyoming, in what year? A I think it was in '85 or '84.
Q You were married before you married Fleming? A Yes sir, I married Mr. Beeson.
Q And he was the husband that you went to Wyoming with? A Yes sir.
Q Then from 1878 to 1885 you and your husband were out in Wyoming about seven years? A Yes, but we came back here in the meantime, put up some fencing and put up one house; I owned my property here.
Q You owned your property here? A Yes sir, only taken my trunk and one box.
Q Did you have your household effects here? A Yes sir, all except my trunk and one box.
Q When you came back did you go back to the same farm you left? A Yes sir.
Q Since 1885 where have you been living? A Been living here, right here.
Q Have you ever been out for any purpose? A No sir, not at all.
Q Your absence from the territory from 1878 to 1885 is the reason that your name does not appear upon the roll of 1880 is it? A Yes sir, I wasn't on the 1880 roll, after I came back I lived as a Cherokee, I saved the money of the Cherokee Nation.
Q Did you apply for admission after you came back? A No sir, I never left my home to be out of it.
Q Since that time have you drawn all the payments made by the authorities of the nation? A Yes sir.
Q Has your right ever been disputed in any manner? A None at all. When they taken the 1896 roll the man that took me said I better

go to Tahlequah because I wasn't on the 1880 roll; when I went there I was put on the roll.
Q Your right has never been disputed since that time? A Never has.

Alice Crockett, being sworn and examined by the Commission, testified as follows:
Q What is your name? A Alice Crockett.
Q How old are you? A 45.
Q What is your postoffice address? A Fairland.
Q Are you a sister of the applicant, Maria Fleming? A Yes sir.
Q Are you an older or younger sister? A Younger.
Q Did you have the same father and mother? A Yes sir.
Q Have you always resided in the Cherokee Nation? A Yes sir;
A Always resided in the Cherokee Nation.
Q Did you have any other brothers or sisters? A Have no brothers but I have sisters. They are all dead except one, I have one half-sister.
Q Does your name appear upon the roll of 1880? A Yes sir.
Q Through whom do you claim your right to enrollment? A Through my mother.
Q Was she always recognized as a citizen? A Yes sir.
Q When did she die? A She died the year the war come up.
Q Your right to enrollment has never been disputed? A No sir.
Q Since your sister returned from Wyoming in 1885 have you ever heard her right to enrollment disputed? A No sir.
Q Has she always been recognized as a citizen? A Yes sir.
Q Has she always to your personal knowledge participated in the payments made by the tribal authorities? A She has.
Q Has she to your own knowledge lived in the nation since 1885 continuously? A Yes sir.
Q She was recognized as a citizen before she went to Wyoming? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. L. Rothenberger

Subscribed and sworn to before me this 23rd day of June, 1902.

P. D. Lester
Notary Public.

Cherokee D-339.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 17, 1902.

In the matter of the application of James W. Fleming for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Maria L., and stepchild, Edward B. Beeson, as citizens by blood of the Cherokee Nation; said Maria L. Fleming, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Maria L. Fleming.
Q How old are you? A Fifty-two.
Q What is your postoffice? A Fairland.
Q Are you a Cherokee by blood? A Yes sir.
Q What is your husband's name? A James W. Fleming.
Q How old is he? A About forty-five? A Yes sir.
Q Is he a white man? A Yes sir.
Q When were you married to him? A We have been married about thirteen years.
Q Married about '89 were you? A Yes sir, somewhere along there.
Q Were you married under a Cherokee marriage license? A Yes sir.
Q Is James W. Fleming your first husband? A No sir, he is my third husband.
Q Who was your first husband? A Toya Squirrel.
Q Was he a white man or Cherokee? A He was a Cherokee.
Q When were you married to him? A In the Chickasaw Nation, just at the close of the war.
Q Is he dead? A Yes sir.
Q When did he die? A I can't remember the year, but it was the year that this M. K. & T. was going through here.
Q About '72? A Yes sir.
Q When did you marry the second time? A The second time I was married after this road went through.
Q Was it after the death of your first husband? A Yes sir, I am sure of that.
Q What was your second husband's name? A Harmon Beeson.
Q Was he a white man or Cherokee? A A white man.
Q How long did you live with him? A I lived with him about eight or nine years.
Q Is he dead now? A Yes sir, he is dead.
Q Was he dead when you married James W. Fleming? A Yes sir, he died of consumption.
Q Has your husband, James W. Fleming, ever been married before he married you? A Yes sir.
Q How often? A Once.
Q Was his first wife a white woman? A Yes sir, she was a white woman.
Q Is she dead? A Yes sir.
Q Was she dead before you and he married? A Yes sir, she died of consumption; he had three children and I raised them.
Q Have you and your husband, James W. Fleming been living together in the Cherokee Nation ever since '89? A Ever since we were married.
Q Never parted? A No sir.
Q Living together now are you? A Yes sir.
Q Have you any children by this husband, Fleming? A No sir.
Q Who is Edward B. Beeson? A That is my second husband's child.
Q It is your child by your second husband? A Yes sir.
Q Has this child always lived in the Cherokee Nation? A Yes sir, he is at school.
Q He is living now? A Yes sir, he is at school, went to school in September.
Q You have lived in the Cherokee Nation, made your home there ever since '89? A Yes sir.

B. James W. Fleming et al.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

D. G. Rothenberger

Subscribed and sworn to before me this 14th day of November, 1902.

B. O. Jones
Notary Public.

Cherokee D-339.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 9, 1902.

In the matter of the application of James W. Fleming for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Maria L., and stepchild, Edward B. Beeson, as citizens by blood of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A James W. Fleming.
Q How old are you? A Forty-five.
Q What is your postoffice? A My postoffice now is Fairland.
Q You are the identical James W. Fleming who applied to the Commission in September, 1900, for enrollment as a citizen by intermarriage? A Yes sir.
Q You at that time applied for your wife and her child? A Yes sir.
Q Is your wife living? A Yes sir.
Q Is your stepchild living? A Yes sir.
Q Have you filed with the Commission evidence of your marriage under Cherokee law? A Yes sir.
Q Were you ever married before you married your present wife, Maria L.? A Yes sir.
Q What was the name of your first wife? A Mary A. Meador.
Q Was that wife living when you married your present wife? A No sir.
Q She was dead? A She was dead.
Q Was your present wife ever married before she married you? A Yes sir.
Q What was the name of her first husband? A Harmon V. Beeson.
Q How often was your present wife married before she married you? A Just the one time.
Q Only once? A Only once that I know of.
Q Was Beeson ever known by any other name? A No sir, not that I know of.
Q Who is Toy Squirrell? A I don't know.
Q You don't know a man by that name? A No sir, I never knew him.
Q Was Beeson dead when you married this wife, Maria L.? A Yes sir.
Q When did he die? A About September 22, '86, I think it was. I wouldn't be sure, sometime about that time. I wasn't living in that settlement at the tim.
Q You state that you don't know that your wife was formerly married to a man by the name of Toy Squirrel? A Not to my knowledge.
Q Did she ever tell you she was? A No sir.
Q Did she ever mention the matter to you? A Yes, she has talked of Squirrel.
Q Did she say she was married to him before she married Beeson? A She married Squirrel before she married Beeson.
Q Do you know whether or not Squirrel was dead before she married Beeson? A He was dead.
Q How do you know he was? A Her husband that she married, Squirrel, before she married Beeson was murdered down here inthe territory when they were working on the M. K. & T. Railway.
Q Was he dead before she married Beeson? A Yes sir.
Q Have you and Maria L. Fleming lived together continuously since you were married? A Yes sir.
Q Were you living together on the first day of September, 1902? A Yes sir.
Q Had you ever separated? A No sir, never have been separated.
Q Have you always resided in the Cherokee Nation since your marriage? A Yes sir.
Q How long has Maria L. Fleming lived in the Cherokee Nation? A She has been here to my knowledge since '85; the first time I saw her was in '85.
Q Has she always lived here since that time? A Since that time she has. Two years after I first saw her until after Beeson's death some

five or six months I didn't see her.
Q Has she always lived in the nation or in the territory since she married you? A Yes sir, she has been here ever since she married me.
Q Did your wife, Maria, tell you that Toy Squirrel was dead before she married Beeson? A Yes sir, I thought a while ago that you asked me whether she married a man by the name of Squirrel since Beeson died, but I thought it could hardly be possible as I lived in that neighborhood.
J.C.Starr: How long have you been living in the Cherokee Nation? A I came into the Cherokee Nation about the last day of February, '78.
Q Were you acquainted with this man Toy Squirrel? A No sir, I never saw him.
Q How do you know he was killed? A Only have my wife's word about that.
Q You testify now as to what your wife told you? A That is all.
Q You have no personal knowledge of it yourself? A No sir.
Q What did you say was the name of your first wife? A She was a Mary A. Meador.
Q Where did you and she live during her lifetime? A Part of the time in Missouri and part of the time in the territory.
Q When did she die? A November 10, 1876.
Q Where? A About three miles northwest of Pineville, McDonald County, Missouri.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E.L. Rothenberger

Subscribed and sworn to before me this 6th day of December, 1903.

B.O. Jones
Notary Public.

339

and had moved to and settled in Cherokee Nation

Mallett & Lane

Ct. No 339

Mariah & J. W.
Fleming et al.

vs

Cherokee Nation

(Copy)
Brief for appli-
cants

McCleith & Smith
attys. for applicants

Cherokee D 339

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DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Maria L. Fleming for the enrollment of herself and her child, Edward B. Beeson, as citizens by blood of the Cherokee Nation, and for the enrollment of her husband, James W. Fleming, as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N

The record herein shows that on September 18, 1900, Maria L. Fleming appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of herslef and her child, Edward B. Beeson, as citizens by blood of the Cherokee Nation, and for the enrollment of her husband, James W. Fleming, as a citizen by intermarriage of the Cherokee Nation. Further proceedings were had in the matter of said application at Vinita, Indian Territory, on October 4, 1900, and at Muskogee, Indian Territory, on February 25, May 13, and October 9, 1902.

The evidence shows that the said Maria L. Fleming is a Cherokee Indian by blood; that she was born in the Cherokee Nation and has lived therein all her life, except during the war of the rebellion and a period of time between 1878 and 1884, during which time she was living in Wyoming, with her former husband, H. V. Beeson, who had gone there in search of health.

Edward B. Beeson is the son of the principal applicant by her former husband, the said H. V. Beeson. James W. Fleming was married, on March 7, 1889, to the said Maria L. Fleming, formerly Beeson, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation. All the applicants are identified on the Cherokee Census roll of 1896, and on examination of the Cherokee pay roll of 1886 for Delaware District, the said Maria L. Fleming is found to be identified thereon at page 9, number 250, as Maria Beeson.

The evidence further shows that Maria L. Fleming has resided continuously in the Cherokee Nation since 1884; that James W. Fleming has resided in the Cherokee Nation with his said wife since the date of their marriage, and that Edward B. Beeson has resided in the Cherokee Nation for about fifteen years, immediately prior to the date of this application.

It is, therefore, the opinion of this Commission that Maria L. Fleming and Edward B. Beeson should be enrolled as citizens

by blood of the Cherokee Nation, and that James W. Fleming should be enrolled as a citizen by intermarriage of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby
Acting Chairman.

T. B. Needles
Commissioner.

C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,

this DEC -1 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 339.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 3, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1902, granting the application of Maria L. Fleming for the enrollment of herself and her minor child, Edward B. Beesen, as citizens by blood, and for the enrollment of her husband, James W. Fleming, as a citizen by intermarriage, of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enclosure H. No. 74.

Testimony G. of
2/15/02 not on file
with Cherokee Nation.

D339

James W. Fleming et al.

Cancelled and transferred to Chancery 1899.

Cher D340

John D. Lacey, et. al.

Cher D340

Cherokee-D-340.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 6, 1905.

In the matter of the application for the enrollment of John D. Lacy et al. as citizens of the Cherokee Nation.

Cherokee Nation represented by W. W. Hastings.

COMMISSION.

Applicants represented by A. H. Norwood and J. D. Cox.
Mrs. John D. Lacy, being duly sworn, testified as follows:

MR. NORWOOD:

Q. What relation were you to John D. Lacy? A. No relation at all-- I was his wife.
Q. Is he living or dead? A. Dead.
Q. When did he die? A. A year ago the 15th. day of last October.
Q. Are you the mother of the children for whom John D. Lacy made application? A. Yes sir, all but one.
Q. What one is that? A. That is his daughter, Myrtle.
Q. Are you the mother of William L., Shelly M., Miles L., Ezekiel M., Jesse F., and Martha E. Lacy? A. Yes sir.
Q. When were you married? A. In 1855.
Q. Where have you and Lacy lived since that time? A. We have lived at several places, but have lived in the Territory all the time.
Q. Where did you live in 1896? A. At Chelsea.
Q. In the Cherokee Nation? A. Yes sir.
Q. Were you there during the whole of the year of 1896? A. With the exception of five or six weeks when we visited in Missouri. My mother was very sick and we went to see her.
Q. How long did you remain in Missouri? A. About six weeks.
Q. During that time did anything occur to prevent your immediate return? A. My husband got hurt there. A team ran away with him and broke his shoulder, and he was not able to travel for six weeks.
Q. Did you or he, during that year, make any effort to have your selves and children enrolled? A. Yes sir, I come down from Missouri to Chelsea to enroll them. McIntosh was one of the Commissioners, and I don't know who the other one was, and they refused to enroll him or the children.
Q. Did they assign any reason? A. Because he wasn't there.
Q. You made every effort that you could? A. Yes sir, I did my best to get him and the childsnnenrolled, and they wouldn't allow me.
Q. When you returned, it was then too late, was it? A. Yes sir they were done gone when we got back.
Q. The reason you couldn't return earlier was because he was hurt and couldn't come? A. Yes sir.
Q. When you lived at Chelsea did you have any property? A. Yes sir, but we sold it and moved to Claremore.

Q. Did you sell it when you went to Missouri? A. No sir.
Q. When you went to Missouri what property did you leave at Chelsea? A. Everything we had but the team we drove.
Q. Did you leave any cattle? A. A cow and calf and all the household things.
Q. Did you have any hogs? A. I don't remember.
Q. You say that he had one child when you and he were married? A. Yes sir.
Q. What was her name? A. Myrtle.
Q. What became of that girl? A. She is in Missouri at my brother's. She has been there about six weeks.
Q. Is she married? A. Yes sir.
Q. Got any children? A. Yes sir, three.
Q. I see there is one child named Ella. Is that Myrtle's child? A. Yes sir.
Q. Do you know when that child was born? A. I don't know that I could tell the day of the year that it was born.

(COMMISSION))-- The record is the best evidence is it not?)

Q. Were you present when that child was born? A. Yes sir.
Q. What is its name? A. Ella May I think. I believe it has a double name. I know it is named Ella.
Q. Is that child living? A. Yes sir.

(Mr. Norwood--- I desire to complete this by supplying the proof of the birth of this child. Would it be best to have a birth affidavit?
COMMISSION --- Yes sir. That is the rule of the Commission.)

COMMISSION:

Q. You are a white woman, are you? A. Yes sir.
Q. You claim no rights as a citizen by blood? A. No sir.
Q. Is Myrtle living? A. Yes sir.
Q. Is William L. living? A. Yes sir.
Q. Is Shelley M. living? Yes sir.
Q. Is Miles L. living? A. Yes sir.
Is Ezekiel living? A. Yes sir.
Q. Is Jessie F. Living? A. Yes sir.
Q. Is Marthe E. living A. Yes sir, they are all living today.
Q. Are they all living with you? A. All but my daughter who is married. She is living to herself.
Q. That is Myrtle? A. No sir, she is my stepdaughter. Shelly M. Is my daughter that is married.
Q. When did she marry? A. Last December.
Q. Up to September 1, 1902 did they live with you in the Cherokee Nation? A. Yes sir.
Q. Who was the mother of Myrtle? A. Her name was Ellen Harlow before she married Mr. Lacy.
Q. She was a white woman? A. I think so.
Q. She was not a Cherokee by blood? A. I think not.
Q. You and all of these children claim your rights through John D. Lacy? A. Yes sir.

MR. HASTINGS:

Q. When were you married to Mr. Lacy? A. In 1885.
Q. Where? In Missouri.
Q. Where in Missouri? A. Out in the country from Springfield.
Q. How long had you known him before you were married? A. Four months.
Q. Had you ever seen him before then? A. No sir.

Q. Where was Myrtle L. Colvin born? A. I don't know.
Q. Where was William L. born? A. In Missouri.
Q. Were you living in Missouri? A. No sir, I livied in the Territory, but I went back to my mother.
Q. Did you ever hear your husband say where Myrtle was born? A. I believe I have heard him say that she was born on Coody's Bluff.
Q. Where was Miles L. born? A. At Tahlequah.
Q. Where does your stepdaughter now live? A. She is in Missouri with my brother.
Q. Near what town? A. 12 miles south of Springfield.
Q. How long has she been there? A. About six weeks.
Q. Where was she married? A. Down here close to Tulsa.
Q. Where was her child born? A. At Zena.
Q. How long did you live in Missouri after you and your husband were married? A. Not more than two months.
Q. You said you applied to the census takers in '96 to be enrolled? A. Yes sir.
Q. And you said that the reason they wouldn't enroll you was that he wasn't here, but didn't they tell you that they didn't find your husband's name on the '80 roll?? A. I don't remember what all they said, but I believe it was that.
Q. Didn't they tell you that because they couldn't find him on the '80 roll they were not allowed to enroll him as a descendant? A. Mr McIntosh told me that the reason they wouldn't enroll him was because he wasn't there.

WITNESS EXCUSED.

G. H. Harlow, being duly sworn, testified as follows:

MR. NORWOOD:

Q. State your name, age, and where you live? A. G. H. Harlow, 80 years old, live near Hudson post office in the Northern District of the Cherokee Nation.
Q. Were you acquainted with John D. Lacy in his lifetime? A. Yes sir.
Q. Then did you first know him or become acquainted with him? A In '79.
Q. Where? A. Coody's Bluff.
Q. What was he known as -- a Cherokee or a white man? A. He was known as a Cherokee.
Q. Was he recognized as such in the community? A. That is all that I ever heard --- was that he was a Cherokee.
Q. Was he married? A. No sir, not when I first knew him.
Q. Did he marry after you first knew him? A. Yes sir.
Q. Who did he marry? A. A sister of mine.
Q. What was her name? A. Ellen.
Q. Do you know just when they married? A. I don't know the exact date, but it was the latter part of '79 or the fore part of '80.
Q. Had she been married previous to that? A. Yes sir.
Q. Who was her first husband? A. Riley.
Q. Did she have any children by him? A. Yes sir.
Q. How many? A. Two.
Q. How long did she and John D. Lacy live together? A. I think they lived together about three years.
Q. Did they have any children? A. Yes sir.
Q. How many? A. Two.
Q. What were their names? A. Myrtle, and the other one died when it was an infant.
Q. Are they both living? A. No, Myrtle is living.

Q. Where did John live during the years of '79, '80, and '81? A. In the vicinity of Coody's Bluff, and at different places around in that vicinity.
Q. Is his wife living yet -- your sister? A. No sir.
Q. She died when? A. I couldn't be just positive, but I think it must have been in '82-- either '81 or '82.
Q. Did you know that during the year of 1880 the Cherokee Nation took a census of the people? A. Yes sir.
Q. Where were you then? A. At Coody's Bluff.
Q. Do you know anything -- any reason why John D. Lacy was not enrolled or placed on that roll by the census takers? A. I only know by what parties told me.

MR. HASTINGS---I object to that. It seems that it is branching this case off to bring in an element of doubt. An interested party is testifying as to a report in the neighborhood.)

Q. Who gave you any reason why he was not enrolled ? A. He was enrolled, I was informed, and old man Looney Riley got mad at him about something, and one day I met him in the road and he said he was going down and have John Lacy scratched off the roll because he was a reservator.

Mr. Hastings-- Now I will withdraw my objection.)

Q. Do you know any other reason why he was not enrolled? A. No, I do not.
Q. Was John a man that was careful and prompt in his business matters? A. No sir.
Q. How about his sobriety? A. He was very reckless and intemperate.
Q. This daughter, Myrtle, is she living yet? A. Yes sir?
Q. Has she any children? A. Yes sir.
Q. Do you know the name of the oldest child? A. No sir, I do not, for I haven't been close to them.
Q. Do you know about how old it is? A. No sir.

MR. HASTINGS:

Q. When was myrtle married? A. I don't know the exact date.
Q. About when? A. It must have been in '94 or '95 I reckon-- somewhere along there.
Q. Do you mean 1904 or 1894? A. 1894.
Q. Has she been married 11 years? A. I think so.
Q. Where is she living? A. I do not know her home. I haven't heard from her till right recently.
Q. Where do you live? A. In the Northern District of the Cherokee Nation, near Hudson.
Q. Do you know where this niece of yours lives? A. No sir.
Q. Looney Riley told you that John Lacy was a reservator? A. Yes sir.
Q. Did he mean that he had taken an allotment somewhere else? A I don't know.
Q. What did he say? A. He said he was going to have his name scratched off because he was a reservator.
Q. Then he went down to the Council and had them take his name off? A. I don't know.
Q. After he went down there and protested, then the Council refused to enroll him? A. I don't know.
Q. That is the reason he wasn't enrolled? A. That is what Riley told me.
Q. Do you knew whether he was a reservator or not? A. No sir.
Q. Did you ever hear any body say so only Looney Riley? A. I

have heard other people say that they had heard it.
Q. It is the usual belief that he was? A. I heard some of the rest of the Riley relation say that he was a reservator.
Q. Did you ever hear it denied? A. No, I don't know as I did.
Q. It has always been practically admitted that he was a reservator? I don't know.
Q. You never saw this man earlier than '79? A. No sir.
Q. Where did your sister die? A. At Coody's Bluff.
Q. He lived with her until her death? A. Yes sir.
Q. And then he went to Missouri, did he? A. I don't know where he went.

MR. NORWOOD:

Q. Where did you understand that Riley went to do this? A. A. Down to the Census Takers, down about Martin Thompson's.
Q. The Census Takers Stopped with Thompson? A. Yes sir.
Q. Did you know John at any subsequent period-- since he married this woman? A. Yes sir.
Q. Do you know where he has lived? A. Yes sir.
Q. Where? A. At Chelsea and Claremore.
Q. What years? A. I knew him at Claremore it must have been about '94 or '95.
Q. Was he then drawing the Cherokee payments? A. Yes sir.
Q. Did he live there? A. He lived at Chelsea.
Q. About aged man was John when he married your sister? A. I took him to be a man of about 25 years. I am not certain about his age.
Q. Did John receive the old Settler's money? A. He told me that he did.

COMMISSION:

Q. What do you mean by the word reservator? A. What I understood, and what Riley told me was that he had taken a reservation of land somewhere else.
Q. Did your sister, Ellen, the mother of Myrtle, claim any rights as a citizen by blood? A. No sir.
Q. She was a non citizen? A. Yes sir.
Q. Was Riley a citizen of the Cherokee Nation? A. Yes sir.
Q. A recognized citizen? A. Yes sir.

(MR. HASTINGS)---It is agreed by and between the parties hereto that the word "reservator", as used in this case, refers to those Cherokee citizens who reserved for themselves and took an allotment out of the strip of land in Kansas, sold by the Cherokee Nation, commonly known as Neutral Land.)

(The contention of the Cherokee Nation is that the reservator, by taking a reservation of this land, became a citizen of the state of Kansas and forfeited his right to be enrolled as a citizen of the Cherokee Nation without being readmitted by the Council of the Cherokee Nation.)

WITNESS EXCUSED.

J. D. Cox, being duly sworn, testified as follows:

MR. NORWOOD:

Q. State your name, age, and post office address? A. J. D. Cox, 43 years old, Tahlequah, I.T.
Q. Were you acquainted with John R. Lacy? A. Yes sir.

Q. Where? A. At Chelsea.
Q. When? A. In 1893, in April, and knew him all the time until about two months before his death.
Q. Where did he reside during the time that you knew him? A. At different places. At first at Chelsea and in that vicinity until he left there in 1896.
Q. Where was he in 1896? A. He was in Chelsea-- about a mile from there-- on some improvements that he had made, until in the fall when he took his wife and children and went away. I don't know where he went to. Soon after they left his wife came back to Chelsea. He owed me some money and I attached some property they left-- a cow and calf and some hogs, and Mrs. Lacy sold me the hogs, and I believe she sold me the cow and calf and paid the debt off. Their household goods, or a portion of them, were in the house at the time. Sometime afterwards John came back and was unable to work for some time after he came back. He had happened to some kind of an accident while he was gone. The next I knew of him he was at Claremore and the next time I knew of him he was at Locust Grove, and I didn't see him often until the summer of 1903 I met him at Tahlequah. He died soon after that. He was over there in the fall. He drew the Cherokee Strip money in 1894. The reason I know that, he owed me money and paid it at that time.
Q. Did you see his wife in Chelsea while he was absent in Missouri A. I did, she paid me the balance of the debt.
Q. Were the census takers there during that year? A. They were there that year but I wouldn't say positively that they were there at that time.
Q. Who were they? A. John McIntosh and I am not sure, but I think Judge Clingon was the other.

MR. HASTINGS:

Q. You are not a citizen of the Cherokee Nation? A. No sir.
Q. You were not a census taker? A. No sir.
Q. You do not know whether John D. Lacy took an allotment in Kansas or not? A. No sir.

COMMISSION:

Q. When did you first know John D. Lacy? A. In April, 1893.
Q. You never knew him before then? A. No sir.

WITNESS EXCUSED.

Mrs. Lacy recalled.

MR. COX:

Q. Do you know whether John D. Lacy drew the old settler's money or not? A. Yes sir, he drew it at Claremore.

(MR. HASTINGS--- Comes now the Cherokee Nation and moves to strike out the above for the reason for the reason that it is irrelevant and immaterial for the reason that people who live in Texas and California and various parts of the United States who were heirs of the people on the old settleroll drew that money, and, it is therefore not a question of blood but a question of heredity. If John D. Lacy took a reservation in the state of Kansas he forfeited his right to be enrolled as a citizen of the Cherokee Nation.)

(Mr. Norwood-- The applicants insist that it devolves upon the Cherokee Nation to prove affirmatively that the applicant, John D. Lacy,

had taken his reservation, and that no inference or general understanding is sufficient, but it must be charged by the Nation that proved that he was a reservatar.)

MR. HASTINGS--- The Cherokee Nation, in answer to the above, states that, through its representative, it has written letters to the Department at Washington seeking this information, but as yet no reply has been received, and it, therefore, now moves the Commission, of its own motion, seek this information and file it as a part of the record in this case.)

COMMISSION--- The request of the Cherokee Nation will be taken under advisement, and if the Commission shall hold that the Cherokee Nation must do it--- must procure that copy --- they will be notified of it.)

A. H. Norwood, being duly sworn, states as follows:

My name is A. H. Norwood, I am 54 years of age, and live at Dewey. I knew John D. Lacy first about 1879, and have known him up until the time of his death. I knew him well while he lived with his first wife, who was Mrs. Riley. He lived there with her near Coody's Bluff until she died, in '79. He was residing in the Cherokee Nation when the roll of 1880 was made. I knew his brothers and sisters. His brother, Miles, was on the roll of 1880.

WITNESS EXCUSED.

(Fifteen days, after the receipt of a copy of the evidence, will be allowed in which to file a brief in this case.)

Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above and foregoing on the 6th. day of April, 1905, and that this is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson.

Subscribed and sworn to before me this the 11th. day of April, 1905.

Myron Whitin
Notary Public.

C 10340

COPY. Cherokee D 340

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of John D. Lacey, et al., as citizens by blood of the Cherokee Nation.

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That at Vinita, Indian Territory, on September 18, 1900, John D. Lacey appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of himself and children, Myrtle L., William D., Shelley M., Miles L., Ezekiel M., Jesse Franklin and Martha E. Lacey, as citizens by blood of the Cherokee Nation. Said application also included Lucy F. Lacey, wife of the said John D. Lacey, but the application for her enrollment is differently classified and her rights to enrollment will not be considered in this decision.

The records further show that at Vinita, Indian Territory, on September 19, 1900, Myrtle L. Calvin appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of herself and minor daughter, Ella Calvin, as citizens by blood of the Cherokee Nation, at which time it was shown that the said Myrtle L. Calvin and Myrtle L. Lacey for whom John D. Lacey made application for enrollment on September 18, 1900, are one and the same person; that prior to September 1, 1902, she was married to John W. Calvin, a non citizen of the Cherokee Nation, and she was then listed for enrollment as Myrtle L. Calvin. Further proceedings in the matter of said applications were had at Tahlequah, Indian Territory, November 25, 1901, and at Muskogee, Indian Territory, January 8, February 25, August 12, and October 21, 1902, and on March 20, and April 6, 1905.

THE EVIDENCE IN THIS CASE SHOWS: That William Lacey, father of the principal applicant herein, John D. Lacey, was a Cherokee by blood and removed to the Cherokee Nation about the year 1850; that the said John D. Lacey was born in the Cherokee Nation and excepting occasional absences for temporary purposes, resided continuously in said Nation from the time of his birth until the time of his death in October 1903. The said John D. Lacey is

duly identified on the Cherokee census roll of 1890 and the Cherokee strip payment roll of 1894. The evidence further shows that the other applicants herein, Myrtle L. Calvin, William D., Shelley M., Miles L., Ezekiel M., Jesse Franklin and Martha E. Lacey, are children and Ella Calvin a grandchild of the said John D. Lacey; that they were born in the Cherokee Nation and have continuously resided therein since birth. The said Myrtle L. Calvin, William D. and Shelley M. Lacey are identified on the Cherokee census roll of 1890 and the Cherokee strip payment roll of 1894. The said Miles L. Lacey is also identified on the Cherokee strip payment roll of 1894. The applicants, Ezekiel M., Jesse Franklin and Martha E. Lacey and Ella Calvin are not identified on any roll of the Cherokee Nation, but they are duly identified as descendants of John D. Lacey by birth affidavits which are filed herewith and made a part of the record herein.

IT IS THEREFORE ORDERED AND ADJUDGED: That in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495) John D. Lacey, Myrtle L. Calvin, William D. Lacey, Shelley M. Lacey, Miles L. Lacey, Ezekiel M. Lacey, Jesse Franklin Lacey, Martha E. Lacey and Ella Calvin are entitled to enrollment as citizens by blood of the Cherokee Nation and their applications for enrollment as such are accordingly granted.

Tams Bixby.
Commissioner.

Dated at Muskogee, Indian Territory.
this OCT 19 1906

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

In the matter of the application for the enrollment of John D. Lacy, et al., as citizens by blood of the Cherokee Nation, C. D. 340.

Protest of Cherokee Nation.

Comes now the representative of the Cherokee Nation and respectfully dissents from the ruling of the Commissioner to the Five Civilized Tribes of date November 30, 1906, overruling the motion for a reconsideration of the decision of the Commissioner to the Five Civilized Tribes rendered October 19, 1906, granting the application for the enrollment of John D. Lacy, et al., as citizens by blood of the Cherokee Nation, and asks that the same be forwarded to the Secretary of the Interior for review, for the reasons stated in our motion to reconsider October 26, 1906.

Inasmuch as we have stated our position very fully in this motion to reconsider we do not deem it necessary to restate it in detail, but in the communication of the Commissioner to the Five Civilized Tribes overruling the motion to reconsider, dated November 30, 1906, it is stated that the Commissioner to the Five Civilized Tribes addressed a communication to the Commissioner of Indian Affairs asking to be advised whether or not the principal applicant, John D. Lacy, or William Lacy, had taken a reservation in the State of Kansas in what is known as the neutral lands, and it is further stated that on April 10, 1906, a reply was received from the Hon. Commissioner of Indian Affairs as follows:

"The records of this office have been examined with reference to your inquiry and it has been ascertained that these persons did not receive reservations in the neutral lands in Kansas."

Evidently there is some mistake because the letter copied in our motion to reconsider, dated May 14, 1879, addressed to W. A. Phillips, Esq., who was then the Attorney for the Cherokee Nation, and signed by J. A. Williamson, Commissioner, appears to be authentic and this letter contains the name of William Lacy. Now if the name of William Lacy is

contained in that list, and he is the father of John D. Lacy, as contended by the Cherokee nation, then we contend that under the 19th Article of the Treaty of July 19, 1866, these applicants are not entitled to be enrolled as citizens by blood of the Cherokee Nation, because they forfeited their citizenship in the Cherokee Nation and are certainly not entitled unless they were readmitted to citizenship by some court or commission having jurisdiction. We therefore ask that all the records connected with this case be transmitted to the Secretary of the Interior for review.

Respectfully submitted,

12/4/06.

W. W. Hastings

Attorney for t he Cherokee nation.

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

In the matter of the application for the enrollment of John D. Lacy, et al., as citizens by blood of the Cherokee Nation,

Motion to Reconsider.

Comes now the Cherokee Nation and moves the commissioner to the Five Civilized Tribes to reconsider the decision rendered on October 19, 1906, adjudging that the applicants in said case are entitled to be enrolled as citizens by blood of the Cherokee Nation, for the following reasons, to-wit:

First. The record in this case shows that the father of John D. Lacy was William Lacy and the record further shows that they were reservators upon the neutral land in the State of Kansas.

Second. The records in the possession of the Commission in the book entitled, "List of Registered Delawares" contains the following letter from the Commissioner of Indian Affairs shows that patents were issued to the following reservators as heads of families for 320 acres of land each upon neutral lands in the State of Kansas, and that among them is the name of William Lacy, and that the said William Lacy is the father of the principal applicant John D. Lacy:

"Refer in reply
to this initial. Department of the Interior, W.R.I
General Land Office I.V.B.S.
Washington, D. C. May 14th 1879.

W. A. Phillips, Esq.
1008 H. St. N. W.
Washington, D. C.

Sir:

I am in receipt of your letter of 10th inst, requesting to be furnished with a list of the Cherokee Indians in whose favor patents issued for 320 acres of land under the provisions of the 19th Article of the treaty with the Cherokee Nation of Indians, concluded July 19th, 1866.

In reply thereto will say that it appears upon an examination of the records of this office on the 18th May 1870, patents issued to the following named parties, in conformity with the 19th article of the treaty aforesaid, viz:

Lucinda A. Archer
Samantha S. Barnett
Edward Crutchfield
William M. West
John Welch
Susan Harris
David L. Harlan
Albert W. Harlan
Joseph Ann Hall
Mary Ann Gump
William Lacy
William Lankford
Menecey Martin
Jane Phillips
Arnold P. Shamblin
David M. Harlan
David M. Harlan, Guardian
of heirs of Catherine James Rawls
David M. Harlan, Guardian of heirs of
M. R. Seymour
David M. Harlan,
Guardian of heirs of
Charlesnogun.

Respectfully

(Signed) J. A. Williamson,
Commissioner."

Third. The patents were issued to reservators upon said neutral land in accordance with the 19th Article of the Treaty of July 19, 1866, which is as follows:

> Article 19. All Cherokees being heads of families residing at the date of ratification of this treaty on any of the lands herein ceded, or authorized to be sold, and desiring to remove to the reserved country, shall be paid by the purchasers of said lands the value of said improvements, to be ascertained and appraised by the Commissioners who appraise the lands, subject to the approval of the Secretary of the Interior; and if he shall elect to remain on the land now occupied by him, shall be entitled to receive a patent from the United States in fee-simple for three hundred and twenty acres of land to include his improvements, and thereupon he and his family shall cease to be members of the nation.
>
> And the Secretary of the Interior shall also be authorized to pay the reasonable costs and expenses of the delegates of the Southern Cherokees.
>
> The moneys to be paid under this article shall be paid out of the proceeds of the sales of the national lands in Kansas."

And it will be noted that the patents were issued to the head of the family for 320 acres and said Article provides:

> "....and thereupon he and his family shall cease to be members of the nation."

Fourth. The Assistant Attorney General Hon. Frank L. Campbell, on September 26, 1906 (I.T.D. 7832-1905), held in the matter of the application of Laura Foreman and children of herself and deceased husband, James B. Foreman, as follows:

> "There appears to be no question about the accuracy of the finding of facts. By operation of Section 2 of Article 1 of the Cherokee Constitution citizenship of Foreman was lost by his long separation from the nation and some action by the National Council or some court, board or commission to which jurisdiction had been conferred by the National Council or by Congress, was necessary to restore the bond of allegiance and rights of citizenship. No such

restoration having been made, I am of opinion that the action of the Commission should be approved."

The Commission rejected Foreman, although Foreman's name was identified on the 1894 Pay Roll and the 1896 Census Roll, because he has lost his citizenship by operation of Section 2, Article 1 of the Cherokee Constitution. Now our contention is that John D. Lacy lost his citizenship by operation of Article 19 of the Treaty of 1866, and under Article 3, Section 20 of the Cherokee Constitution as Treaties are the supreme law of the land. We submit that the letter attached to the record in this case showing that William Lacy did not take reservation upon the neutral lands of date April 10, 1906, is an oversight by the Commissioner of Indian Affairs in copying the record, as shown by the letter hereinabove copied, addressed to William A. Phillips and made a part of this motion.

For the reasons hereinabove stated we insist that the testimony in this case is sufficient to show that John D. Lacy, the principal applicant, was the son of William Lacy; that William Lacy was a reservator in the State of Kansas, and that he received a patent to 320 acres of land from the neutral lands, and that by virtue of the 19th Article of the Treaty of 1866 he lost his citizenship, together with that of his family, and under the ruling of the Assistant Attorney General in the James B. Foreman case, the Lacys not having been readmitted to citizenship in the Cherokee Nation, that they are not now entitled to be enrolled as citizens of the Cherokee Nation, and we therefore move the Commissioner to the Five Civilized Tribes to reconsider the decision of October 19, 1906, admitting the members of this family to citizenship in the Cherokee Nation, and that said decision be reviewed and that they be denied.

Respectfully submitted,

10-26-06

Signed W. W. Hastings
Attorney for the Cherokee Nation.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. breckinridge,
WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-340.

Muskogee, Indian Territory, March 13, 1905.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of John D. Lacey, et al. as citizens by blood of the Cherokee Nation, you are advised that this case will be taken up for final consideration by the Commission at its offices in Muskogee, India Territory, at nine o'clock A. M. on Monday, March 20, 1905.

The said John D. Lacey has, therefore, this day been directed to appear on that date and introduce such testimony as he may desire in support of said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

Respectfully,

Chairman.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D. 340.

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

Muskogee, Indian Territory, October 19, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated October 19, 1906, granting the application for the enrollment of John D. Lacey, et al., as citizens by blood of the Cherokee Nation.

You are advised that you will be given fifteen days from date hereof, within which to file such protest as you wish to make against the Commissioner's action in this case. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Commissioner.

Incl.C-89
LMC

REFER IN REPLY TO THE FOLLOWING:

Cherokee D
340

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

Muskogee, Indian Territory, November 20, 1906.

W. W. Hastings,
Attorney for Cherokee Nation.
Muskogee, Indian Territory.

Dear Sir:

Your motion for reconsideration of the decision of the Commissioner to the Five Civilized Tribes rendered October 19, 1906, granting the application for the enrollment of John D. Lacey, et al., as citizens by blood of the Cherokee Nation, is before this office. You move the Commissioner to the Five Civilized Tribes to reconsider said decision for the following reasons:

First. That the principal applicant in said case, John D. Lacey, is the son of one William Lacey, who was a reservator upon the neutrel land in the state of Kansas.

Second. That the book entitled "List of Registered Delawares", which is in the possession of this office,

contains a letter dated May 14, 1879, addressed to W. A. Phillips, esq., 1008 H. St. N. W., Washington, D. C., and signed by J. A. Williams, Commissioner, which letter shows that a patent for 320 acres of land was issued to one William Lacey, whom you allege to be the father of the principal applicant, John D. Lacey.

Third. That this patent was issued in accordance with the 19th Article of the treaty of July 19, 1866, which in part provides:

> " . . . and thereupon he and his family shall cease to be members of the Nation".

Fourth. That the Assistant Attorney-General, Honorable Frank L. Campbell, on September 26, 1906 (I.T.D. 7832-05), held in the matter of the application of Laura Foreman and children of herself and deceased husband, James B. Foreman, as follows:

> "There appears to be no question about the accuracy of the finding of facts. By operation of Section two of Article I of the Cherokee Constitution, citizenship of Foreman was lost by his long separation from the Nation, and some action by the National Council, or some court, board or commission to which jurisdiction had been conferred by the National Council, or by Congress, was necessary to restore the bond of allegiance and rights to citizenship. No such

restoration having been made, I am of opinion that the action of the Commission should be approved".

In reply you are advised that on August 8, 1905, this office addressed a communication to the Commissioner of Indian Affairs, advising him that the principal applicant in this case, John D. Lacey, is an applicant before this office for enrollment as a citizen by blood of the Cherokee Nation, and that the Cherokee Nation contends that John D. Lacey was a reservator. Said letter further advised the Commissioner of Indian Affairs that the name William Lacey appears upon a list, in the possession of this office, of Cherokee Indians in whose favor patents were issued for 320 acres of land, under the provisions of the 19th Article of the treaty with the Cherokee Indians of July 18, 1866, who, the Cherokee Nation contends, is the father of the applicant, John D. Lacey. Said letter requested the Commissioner of Indian Affairs "to furnish this office with such data as you may have which may enable this office to determine whether or not the said William Lacey, upon the list above referred to, is the father of the applicant, John D. Lacey".

On April 10, 1906, a communication in reply to said letter was addressed to this office by C. F. Larrabee,

W.W.H.-4

Acting Commissioner, advising this office as follows:

> "The records of this office have been examined with reference to your inquiry, and it has been ascertained that these persons did not receive reservations in the "neutral lands" in Kansas".

As to the forfeiture, by said John D. Lacey, of his right to citizenship in the Cherokee Nation, this office adheres to its decision of October 19, 1906.

Your motion for reconsideration of the decision of the Commissioner to the Five Civilized Tribes granting the application for the enrollment of John D. Lacey, et al., as citizens by blood of the Cherokee Nation, is denied, and you are advised that you will be allowed fifteen days from the date of this letter to file such protest as you desire to make against said decision, and to make satisfactory proof of service upon the attorney for the applicant.

Respectfully,

Commissioner.

MMP

(COPY)

LAND
109635-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON. February 27, 1907.

COPY

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed the record of proceedings in the matter of the application for the enrollment of John D. Lacey, et al., as citizens of the Cherokee Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated October 19, 1906, granting the application for the enrollment of John D. Lacey, Myrtle L. Calvin, William D., Shelley M., Miles L/, Ezekiel M., Jesse Franklin, Martha E. Lacey, and Ella Calvin, as citizens by blood of the Cherokee Nation.

On October 26, 1906 the Cherokee Nation filed with Commissioner Bixby a motion to re-consider his decision of October 19, 1906, and on November 30, 1906 the motion was denied. On December 14,1906, the attorney for the Cherokee Nation filed a protest, transmittedherewith, against thedecision of the Commissioner to the Five Civilized Tribes in this case.

The record shows that on September 18, 1900, John D. Lacey appeared before the Commission to the Five Civilized Tribes and made application for the enrollment ofhimself and children herein named as citizens of the Cherokee Nation. The record further shows that on September 19, 1900, Myrtle L. Calvin

appeared before the Commission to the Five Civilized Tribes and made application for the enrollment ofherself and her minor daughter, Ella Calvin, as citizens of the Cherokee Nation, at which time it was shown that Myrtle L. Calvin, and Myrtle L. Lacey, for whom John D. Lacey made application for enrollment on September 18, 1900 are one and the same person; that prior to September 1, 1902 she was married to John W. Calvin, a non-citizen ofthe Cherokee Nation, and she was then listed for enrollment as Myrtle L. Calvin.

The evidence shows that William Lacey, father of the principal applicant herein (John D. Lacey) was a Cherokee by blood and removed to the Cherokee Nation about the year 1870; that John D. Lacey was born in the Cherokee Nation, and except for occasional absences for temporary purposes, had resided continuously in the Cherokee Nation from his birth to his death in October 1903. Commissioner Bixby reports that John D. Lacey is identified on the Cherokee census roll of 1890 and the Cherokee strip payment of 1894. The evidence further showsthat the other applicants herein- Myrtle L. Calvin, William D., Shelley M., Wiles L., Ezekiel N., Jesse Franklin, and Martha E. Lacey are the children and Ella Calvin, a grandchild of John D. Lacey; that they were born in the Cherokee Nation and have continued to reside there since birth.

Commissioner Bixby reports that Myrtle L. Calvin, William D., and Shelley M., Lacey are identified on the Cherokee census

roll of 1890 and the Cherokee strip payment roll of 1894., and that Miles L. Lacey is also identified on the Cherokee strip payment roll of 1894; that Ezekiel M., Jesse Franklin, and Martha E. Lacey, and Ella Calvin, are not identified on any roll of the Cherokee Nation, but that they are identified as descendants of John D. Lacey by birth affidavits, which are a part of the record herein.

Therefore, by reason of the provisions of Section 21 of the Act of Congress approved June 28, 1898, (30 Stat.L.,495), the Office concurs in the decision of Commissioner Bixby enrolling the applicants herein as citizens of the Cherokee Nation.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

EBM-LC..

SPECIAL Copy

D.C.12427 J.Y.Jr.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D.5975-1907. FHE.

LRS DIRECT March 1, 1907.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

December 10, 1906, you transmitted the recordin the matter of the application for the enrolment of John D. Lacey, Myrtle L. Calvin, William D., Shelley M., Miles L., Ezekiel M., Jesse Franklin, Martha E. Lacey and Ella Calvin, as citizens by blood of the Cherokee Nation, including your decisionof October 19, 1906, granting such application.

Reporting February 27, 1907 (Land 109685-06), the Indian Office concurs in said decision. A copy of its letter is inclosed.

Yourdecision ishereby affirmed. The papers in the case and a copy hereof have been sent to the Indian Office.

Respectfully,

(Signed) Jesse E. Wilson

Assistant Secretary.

1 inc.and
3 for Ind. Of.
A F Mc

3-2-07

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 340.

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

Muskogee, Indian Territory, March 15, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated October 19, 1906, granting the application for the enrollment of John D. Lacey, et al., as citizens by blood of the Cherokee Nation, was affirmed by the Department, March 1, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-11
LMC

Chinese — No 340

Jas. D. Lacey Esq.

JUN 6 1907 Cancelled and Nos. 1 & 3 to 10 inc. transferred to Chic. No. 11323; no 2 transferred to Chic. No R-1107.

Cher D 341

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 20, 1900.

In the matter of the application of Lucy C. Lee Blevins for the enrollment of himself and children as Cherokees by blood, and his wife as a Cherokee by intermarriage, being sworn and examined by Commissioner Kretzinger, he testified as follows:

Q What is your name? A Lucy Lee Blevins.
Q How old are you? A 38.
Q What is your post office address? A Zenia.
Q What is your district? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A Yes, sir.
Q What degree of blood do you claim? A About 1/32.
Q What is the name of your father? A Will Blevins.
Q Is he living? A I don't know whether he is or not, he went off in the war and I don't know anything about him.
Q What is the name of your mother? A Mary.
Q She living? A No sir, she is dead.
Q What is the name of your wife? A Collie.
Q She is a citizen by blood? A No, sir, a white woman.
Q When did you marry her? A I married her in 1890.
Q What was her name before you married her? A Vickery.
Q Have you got any certificate of marriage? A Yes, sir, I have. I had a certificate here to-day that the preacher wrote and he gave it to the clerk to record, it is on the record but the clerk's name isn't on it.
Q Why didn't he give you the certificate, that is all you want, signed by him? A I had that here to-day and Jeff Hogan has got it now.
Q Your wife's father and mother are white people, non citizens?
A Yes, sir.
Q What are the names of your children? A John Thomas Blevins, 20 years old.
Q What is the name of the next one? A Walter Lee Blevins, 18 years old.
Q What is the name of the next one? A William Blevins, 16 years old.
Q What is the name of the next one? A Amelia Blevins, she is 7 years old.
Q What is the name of the next one? A Edna, she is 5 years old.
Q The name of the next one? A That is all.
Q These children alive and living with you? A Yes, sir, three of them is living with me, they are all alive.
Q They are all living in the territory? A Yes, sir.
Q Are you living with your wife now? A Yes, sir.
Q You have lived with her since you married her? A Yes, sir.
Q If you were married to her in 1890, did you have another wife?
A Yes, sir, Louisa.
Q Is she upon the authenticated roll of 1896? A I think so.
Q Was she a white person? A Yes, sir.
Q She dead? A No, sir.
Q Have you parted from her? A She left me and went off with another man, I don't know anything about her.
Q Did you ever get a divorce from her? A Yes, sir.
Q Did you get a divorce before you married this other woman?
A Yes, sir.
Mr. W.H.Hutchings, attorney for Cherokee Nation: What court did you get a divorce in? A In the Cherokee Court.
Q You don't know where she lives now? A No, sir.
Q Do you know whether she lives in the Nation or not? A I don't know where she lives.
Q She abandoned you and went off with another man? A Yes, sir.
Q When you have got a divorce? A I sued for a divorce and

and never appeared against me and I was sick and couldn't go and my lawyer said that he thought the divorce was granted through default.

(On 1880 roll, page 219, No. 94, Leroy Blevins, Delaware district. Louisa Blevins on 1880 roll, page 219, No. 95, Louisa Blevins, Delaware district. Leroy G. Blevins on 1896 roll, page 434, No. 113, Leroy Blevens, Delaware district. Callie Blevins on 1896 roll, page 506, No. 50, Callie Blevins, Delaware District. John Thomas Blevins on 1896 roll, page 434, No. 114, John T. Blevens, Delaware district. William Walter Lee Blevins on 1896 roll, page 434, No. 116, Walter L. Blevens, Delaware district. William Blevins on 1896 roll, page 434, No. 117, Willie Blevens, Delaware district. Addie Blevins on 1896 roll, page 434, No. 118, Addie Blevins, Delaware district. Edna Blevins on 1896 roll, page 434, No. 119, Edner Blevens, Delaware district.)

Q. I believe you stated that these children are all alive and living in the Territory? A. Yes, sir.

The name of Leroy G. Blevins appears upon the authenticated roll of 1880 as Leroy Blevins and upon the census roll of 1896. He avers that he was married to one Callie Vickery in the year 1896, but presents no proof of certificate of marriage. He also avers that his first wife was named Louisa, and her name appears upon the authenticated roll of 1880. He avers that he has two children by said Louisa, John T. and Walter L., whose names appear upon the census roll of 1896 and are duly identified as the children of the said Louisa. Consequently, the said Leroy G. Blevins and his two children, John T. and Walter L., will be duly listed for enrollment by this Commission as Cherokee citizens by blood.

As stated, he presents no certificate of marriage to his wife, Callie, and the testimony shows that his first wife, Louisa, is still living, though he has parted from her, but no proof of divorce is presented. Consequently, the said Callie, his present wife, and his three children, William, Addie, and Edna, by her, will be placed upon a doubtful card, and final decision as to their enrollment will be suspended awaiting proof of marriage and a certified copy of the divorce between him and his former wife, Louisa.

---o---

Bruce O. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce O. Jones

Sworn to and subscribed before me this the 16th day of September, 1909.

J. B. R[illegible]

Commissioner.

D. 341.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1908.

In the matter of the application of Callie Blevins for the enrollment of herself and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 6th that her case would be taken up by the Commission for final consideration on the 25th day of February, 1908, and that she could on said day appear before the Commission either in person or by attorney, when an opportunity would be given her to introduce any further testimony affecting her application. She was especially requested to supply the Commission with a certified copy of the decree of divorce between her husband and his former wife, Louisa. Also evidence of her marriage to her husband, Leroy C. Blevins. The applicant has been called three times and fails to respond. The case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cherokee D-341.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William, Apsia and Edna Blevins as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 18, 1900, Leroy Cicero Blevins appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of himself and his minor children, William, Apsia and Edna Blevins, as citizens by blood of the Cherokee Nation. The other parties to the application are differently classified and are not embraced in this decision. The application also included Callie Blevins as a citizen by intermarriage of the Cherokee Nation, but her status as such is not passed upon at this time and she is not embraced in this decision. Proceedings had at Tahlequah, Indian Territory, on July 18, 1903, in the matter of the application for the enrollment of Leroy Cicero Blevins et al., Cherokee 2987, are filed with and made a part of the record herein.

The evidence shows that Leroy Cicero Blevins is a Cherokee citizen by blood and identified on the Cherokee authenticated roll of 1880 and the Cherokee census roll of 1896; William, Apsia and Edna Blevins are identified on the Cherokee census roll of 1896. The evidence further shows that the said applicants have lived in the Cherokee Nation all their lives.

Section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), provides for the enrollment of all persons now living whose names are found on the 1880 authenticated roll and their descendants born since the date of said roll.

The evidence further shows that the applicants herein are aged ten, seven and five years, respectively.

It is, therefore, the opinion of this Commission that William Blevins, Apsie Blevins and Edna Blevins should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of law above quoted, 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.

SIGNED W. E. Stanley.
Commissioner.

Dated at Muskogee, I. T.,
this JAN 6 1904

ATTORNEYS
L. B. BELL
W. W. HASTINGS
J. S. DAVENPORT
J. C. STARR, SECRETARY

OFFICE OF

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

341
D - [redacted]

No. F. D.

[redacted]

Vinita, Indian Territory, January 24th.,1903.

A. B. Cunningham, Esquire,
Assistant Executive Secretary,
Tahlequah, Indian Territory.

Dear Sir:-

We are in receipt of your letter of January 23d., with reference to the fact that the records of Delaware District do not show any divorce having been granted to Leroy C. Blevens from his wife, Louisa Blevens. Please kindly send us a negative certificate so that we can file it in the case.

The point in this case is that after the separation of Louisa Blevens and Leroy C. Blevens, the latter married a white woman now on a doubtful card under the name of Callie Blevens, and if there was no divorce of Leroy C. Blevens from his former wife, this Callie Blevens would not be entitled to enrollment, and we need the negative certificate to show that fact.

Yours very truly,

MDG

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-341.

Muskogee, Indian Territory, January 7, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 6, 1904, granting the application of Leroy Cicero Blevins for the enrollment of his three minor children, William, Apsia and Edna Blevins, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Commissioner in Charge.
~~Chairman.~~

Enc. D-16.

CHEROKEE II 341

Callie Blevins et al.

OCT 12 1927 Proceeded and transferred to Court of Claims 1911.

Cher D 342

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES'
VINITA, I.T., SEPT., 19, 1900.

In the matter of the application of James F. Petty for enrollment of himself and two children as citizens of the Cherokee Nation, said Petty being sworn by Commissioner Breckinridge, testified as follows:

Q What is your name? A James F. Petty.
Q How old are you? A 32.
Q Your postoffice? A Zena.
Q In what district do you live? A Delaware.
Q Whom do you want to have put on the rolls? A Myself and two children.
Q Do you apply for yourself as a Cherokee by blood? A No sir, white man.
Q Have you your marriage license and certific te? A Yes.

Applicant presents duly authenticated Cherokee marriage license and certificate. The license is issued by the Clerk of Goingsnake district authorising his marriage to Miss Mary J. Ross. License is dated April 6, 1889, and the certificate shows that they were united in marriage on April 7th of the same year by J. V. McPherson, Judge of the Goingsnake District Court. These papers are filed herewith.

Q Now have you lived in the Cherokee nation ever since your marriage in '89? A yes.
Q Is your wife alive now or dead? A Dead.
Q When did she die? A '96.
Q Did you and her live together from the time of your marriage until her death? A Yes.
Q Have you ever married since she died? A No sir.
Q Where was your wife in '80? A In Delaware district, I guess.
Q How old was she when she died? A About 23 years old.
Q Did she die before the '96 roll was made up or is she on that roll with you? A I think so.
Q What district was she from then-- what district were you living in in '96? A Goingsnake.
Q Now give me names of these two children? A Clarence F., 9 years old.

On '96 roll, page 778, number 1648, as Clarence.

Q Next child? A George R., 8 years old.

On '96 roll, page 778, number 1649, as George.

Q What proportion of Cherokee blood did your wife have? A About 1/8 I guess.
Q Are these children living now? A yes.

Applicant on '96 roll, page 826, number 149, as James (S) Petty.

The applicant applies for the enrollment of himself and two children. The marriage license and certificate filed herewith shows that he was married in '89 in accordance with Cherokee law to one Mary J. Ross, stated in the license to be a Cherokee citizen. He states that she died in '96; that they lived together from their marriage until her death in the Cherokee Nation, and that he has not married since her death. He is identified on the roll of '96, but his wife who died before the roll of '96 and would be some 27x years old at this time, is not identified on the roll of '80. The application of the applicant for his own enrollment will be at this time placed upon a doubtful card to await information that will enable the Commission to identify his wife upon the roll of '80. The two children, Clarence F. and George R., are identified on the roll of '96, but as they derive their rights through their mother, the application for their enrollment will also be placed upon a doubtful card to

to await the same information as in the case of their father.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 21st day of September, 1900.

Commissioner.

D342

SUPPLEMENTAL TESTIMONY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
TAHLEQUAH, I.T., DECEMBER 8th, 1900.

IN THE MATTER OF THE ENROLLMENT OF THOMAS P. PETTY AND CHILDREN,
CARD No. 2848.

(SUPPLEMENTAL JUDGMENT)

(1880 Roll, Page 87, #73, Mary Rose, Orphan Roll, Saline District)

Com'r. T. B. Needles: Upon an examination of the authenticated roll of 1880 this day, the name of Mary Rose is found upon said roll, according to the page and number as indicated herein. She is only identified as the wife of Jesse P. Petty. This identification explains the defects in the enrollment of the said Jesse P. Petty, as indicated in the judgment given on September 8th, 1900.

Consequently, the said Jesse P. Petty shall be placed upon a straight card as an intermarried citizen, and his children, Clarence P. and George R. Petty as citizens by blood.

The undersigned, being sworn, states that he stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R. R. Crawford

Subscribed and sworn to before me this 10th day of December, 1900.

COMMISSIONER.

D342

CHEROKEE D 342

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES,

In the matter of the application of James F. Petty, et al. for enrollment as Cherokee citizens.

On the 19th day of September, 1900, James F. Petty appeared before the Commission to the Five Civilized Tribes and made application for his enrollment as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his children Clarence F. and George R. as citizens by blood of the Cherokee Nation.

At the conclusion of the evidence the names of all the parties in this application were placed upon a "doubtful" card awaiting proof of the citizenship of Mary Ross, through marriage to whom, applicant bases his right to enrollment.

Further investigation has satisfied the Commission on that question and the following decision is rendered.

D E C I S I O N.

--oOo--

James F. Petty is a white man. He was married by authority of a Cherokee marriage license to Mary J. Ross on the seventh day of April, 1889. The said Mary J. Ross is identified on the authenticated tribal roll of 1880. Applicant has lived in the Cherokee Nation ever since the date of his said marriage and is also identified on the Cherokee Census roll of 1896. Clarence F. and George R. Petty, his children by such marriage are also identified on the roll of 1896.

This Commission in making rolls of citizenship of the Cherokee Nation is governed by the following provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495):

" That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the

only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

In view of the facts and the law in this case it is considered that James F. Petty is entitled to be enrolled as a citizen by intermarriage of the Cherokee Nation, and that his children Clarence F. and George R. Petty are entitled to be enrolled as citizens by blood of the Cherokee Nation.

It is therefore so ordered.

Commissioners.

Dated at Muskogee, Indian Territory,

MAY 27 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes rendered May 27th, in the matter of the application for the enrollment of James F. Petty as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his two children, Clarence F. Petty and George R. Petty, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of said persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. D-342.

James F. Petty et al.

Transferred to Cherokee 9563

Cher D 343

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 19, 1900.

In the matter of the application of Alonzo M. Fishback for the enrollment of himself, wife and children as citizens of the Cherokee Nation; said Fishback being sworn by Commissioner T. M. Needles, testified as follows:

Q What is your name? A Alonzo M. Fishback.
Q How old are you, Mr. Fishback? A 43.
Q What is your post office address? A Adair.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood or inter-marriage? A Inter-marriage.
Q Your father and mother are non-citizens? A Yes, sir.
Q What is the name of your wife? A Her maiden name is Leverna Dawson.
Q When did you marry her? A In 1887.
Q Have you any certificate of marriage? A Yes, sir.
Com'r Needles:--Applicant presents a marriage license, regularly issued by the authorities of the Cherokee Nation, and marriage certificate, certifying that he was married to one L. A. Fishback, nee Dawson on the 17th day of May, 1893. This will be duly filed.

Q You were married the second time to your wife? A Yes, sir.
Q Where were you married the first time? A State of Texas.
Q Is she a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A Yes, sir.
Q What degree of blood does she claim? A One-sixteenth.
Q Her name upon the roll of 1880? A No, sir, 1896.
Q By what right does she claim citizenship, if her name does not appear upon the roll of 1880 ? A
Q Was she ever re-admitted A Yes, sir, by act of the Council.
Com'r Needle :--Applicant presents a certificate dated Tahlequah Indian Territory, November 19, 1895, signed by W. C. Mayes, Asst. Executive Secretary, under the great seal of the Cherokee Nation, certifying that by an act of the Nation Council approved December 1, 1894, Lorena Fishback and family were re-admitted to all the rights and privileges of the Cherokee Nation.
1896 enrollment; page 304, #348, Alonzo M. Fishback, Cooweescoowee.
1896 enrollment; page 156, #1667, Leverna A. Fishback, Cooweescoowee.
Q Have you any children? A Yes, sir.
Q What is the name of the oldest one at home, under 21 years of age?
A William A.
Q How old is he? A Four years old.
Q What is the next one? A Annie M.
Q She is 19 is she? A Yes, sir.
Q Are these children alive and living with you at this time?
A Yes, sir.
Q Are they the children of Leverna Dawson? A Yes, sir.
Q Annie M. was born before your wife was admitted to citizenship, was she?A Yes, sir.

1896 enrollment; page 158, #1701, Wm. A. Fishback, Cooweescoowee
1896 enrollment; page 155, 1669, Annie M. Fishback, "

Com'r Needles:--The name of Alonzo M. Fishback appears upon the census roll of 1896 and he presents a certificate more fully described in the testimony, certifying that his wife, Leverna Fishback was re-admitted to citizenship on the first of December, 1894. He also presents marriage license, certifying that he married to his wife Leverna Fishback nee Dawson on the 17th day of May, 1893. The name of his wife is also found upon the roll of 1896, and the names of his two children, William A. and Annie E., are found upon the census roll of 1896. The said Alonzo M. Fishback having been married in accordance with his certificate before the date of admission of his wife, and his child Annie E. having been born before the date of admission ofhis wife, final judgment as to the enrollment of the said Alonzo M. Fishback and his daughter, Annie E., will be suspended, and their names will be placed upon a doubtful card.

The Representative of the Cherokee Nation protests against the enrollment of his wife, Leverna A., and his child William A., born to her after the date of her admission, and ask that their names also be placed upon a doubtful card, and that final judgment as to their enrollment be suspended, which will be done.

---oooOO∩ooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission of the Five Civilized Tribes, he correctly recorded the testimony and proceedings inthis case, and that the foregoing is a true and complete transcriptof his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 21st day of September, 1900.

Commissioner.

Cherokee D 343

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 18 1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS, in the matter of the application of Alonzo M. Fishback for enrollment as a Cherokee citizen.

Appearances:
Mr. Mellette of Vinita, I. T., attorney for the applt;
Mr. W. Whastings, attorney for the Cherokee Nation.

BY MR. MELLETTE: I want to file a certified copy of act of Council admitting to citizenship Verena Fishback and others, as citizens.

BY COMMISSIONER KEELES: This will be filed.

ALONZO M. FISHBACK, being first duly sworn, and being examined testified as follows:
BY COMMISSIONER KEELES:
Q What is your name? A Alonzo M. Fishback.
Q What is your age? A About 46.
Q What is your post-office? A Adair, Indian Territory.
BY MR. MELLETTE:
Q Are you the husband of Verena Fishback, or what is her right name? A Louverna A. is her right name, but Verna-
Q Is she the Verena Fishback that was admitted by that act of Council there? A Yes sir.
Q You were married to her at the time she was admitted? A Yes sir, I was married to her before that time.
Q I see here with the papers a certificate showing that you were married to L. A. Fishback, nee Dawson, on the 17th day of May, 1893; according to a certificate issued to you by H. H. Trot, Clerk of Cooweescoowee District, is that correct? A Yes sir.
Q Was your wife a citizen of the Cherokee Nation at the time you married her? A Yes sir.
Q Was her name on the rolls of 1886 and 1890, the pay roll or do you know? A Yes sir.
Q What district? A Delaware and Cooweescoowee both; Delaware in 1886 and in 1890 I think you will find it in Cooweesce wee; I am not certain, but I think you will find it in 1890 in Cooweescoowee.

1886 Pay roll of the Cherokee Nation, Delaware District, No. 850, Luverna Fishback, no age given, she is the first, immediately following is John E., and Annie B.

Q Are John E. and Annie B. your children? A Yes sir.
Q You had been married before you married under Cherokee law in 1893 had you, to her? A Yes sir, ~~xxx xxxx~~ how is that?
Q You had been married to your wife before you married her under the Cherokee law in 1893? A Yes sir.
Q When did you first marry her? A In 1877, I think it was.
Q Where did you live at that time? A Texas.
Q When did you move to this country? A In the fall of 1883, November 5th, 1883; when I reached here.
Q Your child there, John E., made a separate application for enrollment before this Commission, an application of his own for enrollment? A Yes sir.
Q He is over 21 is he? A He is now.
Q About how old was he when he moved into the Cherokee Nation? A Somewhere between nine and ten; of course I would have to take the record you understand to be positive; I wouldn't be positive.

Q You remember what year it was he came into the Nation? A Yes, November 5th,1883.
Q Where has he lived, in what country has he lived since he came into the Cherokee Nation in 1883? A Cherokee Nation.
Q Has not lived any other place? A No sir.
Q How old is he now? A He is 23 I think, 22 or '3.
Q Now you applied for the enrollment of your daughter Annie B.? A Yes sir.
Q Was she born in this country or in Texas? A Texas.
Q Was she a minor when she came to this country? A Yes sir.
Q Where has she lived since she came to this country, in 1883? A Right here in the Cherokee Nation.
Q Live here now? A Yes sir.
Q I notice in the certificate of admission by the Cherokee Council that Verena Fishback and her family is admitted to Cherokee citizenship; of whom did her family consist on the first day of December 1894? A John E, and Annie B., that was her children; of cous I am her husband.
Q You were of her family were you not? A Yes sir.
Q You and your wife lived in the Cherokee Nation continuously since you came here in 1883, with your children? A Yes sir.
Q ~~Was she married~~ Still reside herein the Cherokee Nation? A Yes sir.

BY MR. HASTINGS:

Q What is your wife's father's name?A Jasper Dawson.
Q When was he admitted to citizenship? A Well I am not positive, about that, I think in 1881 probably.
Q Wasn't it in 1883, he is a brother of Robert and Elbert , he applied in 1881 but was admitted in 1883? A Well probably so, I have not got the exact dates of that.
Q This Jasper Dawson was your wife's father. A Yes sir.
Q And you proved before the Council that your wife was a daughter of that Jasper Dawson? A Yes sir.
Q And that is the way your wife was admitted. A Yes sir.
Q When was your oldest boy born, I believe you have but one? A That is all.
Q When was he born; I would like to know the exact date of his birth, if you have it? A All right I think I have got it. (Looks at papers.) September 3,1878, John E. Fishback, born September 3,1878.
Q When was your girl born, the oldest one? A February 27th, 1881.
Q You were married to your wife under Cherokee law according to this statement on May 17th,1893? A I think so, sir, yes.
Q Your wife was admitted to citizenship the first day of December 1894, according to your statement, and the record which you present? A Yes sir.
Q And you were married to her some six or eight months the second time before she was admitted to citizenship? A I think you will find it is re-admitted, sir.

1890 pay roll of Cherokee Nation, page 343, No.--- Levernia Fishback, Delaware District. (Two people following) John and Anna Fishback,- no ages given.
BY MR. MELLETTE: I want this certificate copies in the testimony; sometimes they get away from us.
BY COM'R NEEDLES: All right.
BY MR. MELLETTE, (reading)
"Senate Bill No.15.
"Be it enacted, by the National Council, that M.A.Feland, Edna Mabry, Kittie Flourney, Verena Fishback, M.C.Taylor and Esther Cox, together with their fami lies, by, and are hereby entitled to all the rights and privileges as are enjoyed by the

rest of the members of their families who are citizens of the Cherokee Nation by blood, and all of who are now residents of Coowescoowee district.

Passed the Senate November 27th, 1894.

Reach Young, President, Senate.

J.C.Starr, Clerk of Senate.

Concurred in by the Council November 28th, 1894.

V. Gray,

Speaker of Council, Pro tem.

J.H.Dick, Clerk of Council.

Approved December 1st, 1894.

C.J.Harris,

Principal Chief, C.N.

Executive Office,
Cherokee Nation,
Tahlequah, Indian Territory.

I, B.W.Alberty, Assistant Executive Secretary of the Cherokee Nation do hereby certify that the foregoing is a true ~~and~~ copy taken from the record, laws and acts of the Cherokee Nation, made and filed in this office, and is in my legal custody.

Given under my hand and the seal of the Cherokee Nation this the 7th day of February, 1902.

B.W.Alberty,

(Seal) Assistant Executive Secretary, Cherokee Nation."

---- ---- ----

I, M.D.Green, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

M D Green

D343

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Alonzo M. Fishback, et al, for enrollment as Cherokee citizens. Cherokee Doubtful. # 343.

—:Brief and Argument for Applicants.:—

The applicants in this case claim their rights in the Cherokee Nation by and through the wife and mother, Varena Fishback. The representatives of the Cherokee Nation have classed this case with what are known as the Dawson cases, but we see no reason why the applicants herein should have been refused enrollment at the date of their application. It is true that Varena Fishback belongs to the Dawson family but she asserts her right to be enrolled as a Cherokee citizen under and by virtue of an act of the National Council of the Cherokee Nation of December the 1st. 1894, a copy of which act of the Council duly certified, is filed as an exhibit in this case.

It has never been claimed by the authorities of the Cherokee Nation that there was any fraud in procuring the passage by the Council of the Cherokee Nation, of the act of admitting Varena Fishback and her family, and there could certainly be no connection between that act of council and any judgement of admission by the commission organized under the Cherokee law, which would make the validity of the one depend upon the other. In other words, they are entirely independent of each other, ans as Varena Fishback was not a party to either of the judgements rendered by the commission admitting members of the Dawson family, she could not be effected one way or the other by those judgements.

It will be noticed by referring to the act of council above referred to that Varena Fishback and her family are admitted to all the rights of Cherokee citizenship. This act of admission seems to include her husband and children. The council seemed to recognize the fact

that these people had been on the Cherokee rolls for years, as shown by the proof ~~afxthat~~ and that the act of council was only confirming what had already existed for a number of years. The proof shows that Alonzo M. Fishback the husband, who is a white man, and the children of this marriage, and Varena Fishback, were on the blood rolls of the Cherokee Nation long prior to the time of the act of council admitting them, and we think there is no question but that the council intended to admit the entire family of Varena Fishback, including her husband.

The proof in this case shows that the applicants herein moved to the Cherokee Nation in 1883, and that they were soon after placed on the rolls, and as we understand, it was conceded that a mistake had been made in not including Varena Fishback in judgements of admission rendered by Cherokee commissions, and as before stated the council undertook to correct this error by the act above referred to. Alonzo M. Fishback, the husband, was married to Varena Fishback under the Cherokee laws in 1887, prior to the passage of the act of council here in referred to; the wife was at that time on the rolls as was also her children, they having before that time been married in the state of Arkansaw.

If the act of admission above referred to does not include the husband he would certainly be entitled to enrollment as an adopted citizen, having married according to the Cherokee laws at the time when his wife was on the rolls as a recognised citizen of the Cherokee Nation. She being recognised at the time of marriage, the act of council admitting her and her family relating back to the date of their Cherokee marriage, he acquired by that marriage all the rights of an adopted citizen of the Cherokee Nation.

The doctrine of relation is a well recognised one in the law although not very frequently discussed. We find a limited discussion of the question however, in Amer. and Eng. En. of Law, Vol. 2o, page

S. Fishback.

736:

"It is well settled that a government patent for land will relate back to the time of the purchase of land office certificate and that a purchaser holding such certificate may sell the land before the issuing of the patent, or the land may be sold in execution and the execution defendant can not defeat such sale on the ground that his patent for the land bore date subsequent to the sale. Amer. And Eng. Encl. page 735."

"A deed executed in pursuance of a previous contract for the sale of the same premises, is good by relation, from the time of the making of the contract, so as to render valid any intermediate sale or disposition by the grantee. Page 734, Ib."

Seems to us that the only question that can possibly be raised in this case is as to the status of the husband, Alonzo M. Fishback, but from our view of the law he is certaily entitled to enrollment. First, because the act above referred to specifically admits Varena Fishback and family; Second, because the act of council relates back to the marriage and gives it its proper legal status, as the wife was on rolls and was recognized as a citizen of the Cherokee Nation at the time of the marriage.

All of which is respectfully submitted.

Attorneys for Applicants.

3. Fishback.

726:

"It is well settled that a government patent for land will relate back to the time of the purchase or land office certificate, and that a purchaser holding such certificate may sell the land before the issuing of the patent, or the land may be sold in execution and the execution defendant can not defeat such sale on the ground that his patent for the land bore subsequent to the sale."
date.

Chickasaw Docket No. 343
Lonzo M. Fishback
Trial and Judgment
Ex Parte

3. Fishback.

726:

"It is well settled that a government patent for land will relate back to the time of the purchase or land office certificate, and that the a purchaser holding such certificate may sell the land before the issuing of the patent, or the land may be sold in execution and the execution defendant can not defeat such sale on the ground that his patent for the land bore subsequent to the sale."
date.

Charles Dorsey
343
Lloyd M. Fishback
Brief and Argument
C/M

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee I. T. June 13th 1902.

In the matter of the application of Alonzo M. Fishback et al for enrollment as citizens of the Cherokee Nation.

Cherokee Doubtful 343.

Brief on part of the Cherokee Nation.

The testimony in this case shows that Alonzo M. Fishback is himself a white man and he applies for himself as a Cherokee citizen by intermarriage. He married his wife Louverna A. Fishback, nee Dawson, in accordance with the laws of the Cherokee Nation on the 17th day of May 1893. The testimony in this case shows that Louverna Fishback is a daughter of Jasper Dawson, brother of Francis M. Dawson who has been listed for enrollment upon Cherokee Doubtful Card number 324. Louverna A Fishback and family together with a number of other families was admitted to citizenship in the Cherokee Nation by an act of the National Council approved December 1st 1894 and it is quite clear that the word families had only reference to the children of the women mentioned in the act itself because if the act had intended to include the husband the act would have mentioned them because the husband is the head of the family.

Again the act of the National Council admits them as Cherokees by blood whereas Alonzo M. Fishback only claims by intermarriage and it is therefore quite clear that it was not intended by the National Council to have admitted any one other than the women mentioned in said act together with their children and this construction must have been placed upon this act by the parties themselves at that time.

By referring to the testimony taken in the Francis M. Dawson case number Cherokee D 324 it will be observed that all of the members of this same Dawson family who were admitted since January 11, 1883 were admitted upon the strength of their relationship to the Robert Dawson family admitted on January 11, 1883 by the Tahee Court. The testimony shows in that case that no testimony was introduced before the National Council in this or in any other Dawson case except to prove the relationship of the family to the Dawson family who was readmitted by the Teahee Court at

that time. It is admitted that the Fishback family introduced no proof to show their Cherokee blood not even the famous Dexter Baker nor any of the Colored contingent whose names are not remembered who may or who may not have testified in 1883 hence so far as Louverna Fishback is concerned the legality of her admission in 1894 depends upon the legality of the admission of Francis M. Dawson in 1883. If Francis M. Dawson was illegally and fraudulently admitted in 1883 and these people were admitted upon the strength of their relationship to the person admitted by a fraudulent judgment and no separate or independant testimony was introduced to show that they had a meritorious claim then it is quite clear that the Commission could not enroll the applicants in this case.

But the record in this case shows that Fishback and his wife were married in 1877 in Texas, came to this country in 1883 and were married the second time in accordance with the Cherokee Law in 1893 before his wife was a recognized Cherokee Citizen and before she was readmitted to citizenship in the Cherokee Nation and we contend that even if the Commission admits the wife and children in this case that it can not under the law admit Alonzo M. Fishback himself? Section 639 of the compiled laws of the Cherokee Nation requires every one "Desiring to marry a Cherokee, Delaware or Shawnee woman, a citizen of the Nation" to obtain a license for the same from the District Clerk. You will not that the woman must not only be a citizen by blood but must at the same time be a "Citizen of the Nation."

It is argued by counsel for the applicant that the name of his wife appears upon the roll of 1886 and 1890. This is true but the applicants wife was born in the state of Texas, married in the state of Texas, came to this country in 1883, had never been readmitted to citizenship in the Cherokee Nation and she recognized that her name was upon the roll of 1886 and the roll of 1890 without authority of law and she recognized that she was not a citizen of the Cherokee Nation and hence applied to the National Council in 1894 with evidence as to her relationship to the Dawsons, who had been previously readmitted to citizenship and was herself then readmitted to citizenship. Hundreds of Cherokee women have married white men in the states of Georgia, Tennessee and other states, came to the Cherokee Nation and was readmitted, but before their husbands whom they had married in the states could become citizens it was necessary

in every case that they remarry under the Cherokee law after the wife was readmitted to citizenship in the Cherokee nation or after she became a citizen of the Cherokee Nation . Look up the case of William R Halsell and you will find that the National Council in that case required him to remarry his wife in accordance with Cherokee law after her readmission before he could acquire any righat of citizenship in he Cherokee Nation. So has it been in numerouscases and so far as the representative of the Cherokee nation knows without exception. No onein the whole Cherokee Nation has contended that the law was otherwise.

The attention of the Commission is respectfully invited to the brief filed by the Cherokee nation in the case of Francis M. Dawson Cherokee P 324.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

Cherokee D-543.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 5, 1908.

In the matter of the application of Alonzo M. Fishback for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Leverna A., and children, William A. and Annie B., as citizens by blood of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A Alonzo M. Fishback.
Q What isyour age at this time? A About forty-five.
Q What is your postoffice? A Adair.
Q Are you the same Alonzo M. Fishback for whom application was made to this Commission for enrollment as an intermarried citizen in 1900? A Yes sir.
Q What is your wife's name? A Leverna A.
Q Is she a citizen by blood of the Cherokee Nation? A Yes sir.
Q Is she living at this time? A Yes sir.
Q When were you and she married? A In '77. We were married here in '77.
Q Then were you afterwards remarried to her? A Yes sir.
Q When? A I don't know.
Q About how long has it been? A It has been some thing near eight or nine years ago.
Q This last marriage was under a Cherokee marriage license in accordance with the Cherokee law was it? A Yes sir.
Q Your wife was an admitted citizen was she? A Yes sir.
Q Admitted after you and she were married? A Yes sir.
Q Then after that you and she were remarried under Cherokee law? A Yes sir.
Q Were you ever married prior to your marriage toyour wife, Leverna A.? A No sir.
Q Was she ever married prior to her marriage to you? A No sir.
Q Have you and your wife lived together continuously from the time of your marriage up until the present time? A Yes sir.
Q Never been separated during that time? A No sir.
Q Were you living together on the first day of September, 1902? A Yes sir.
Q How long have you lived in the Cherokee Nation? A Right close on to twenty years.
Q Have you lived in the Cherokee Nation all the time for the last twenty years? A Yes sir.
Q Has your wife lived here all the time for the last twenty years? A Yes sir.
Q Are these two children William A. and Annie B., your children by your wife Leverna? A Yes sir.
Q Are they both living at this time? A Yes sir.
Q Have they lived in the Cherokee Nation all the time since their birth? A Yes sir.
Q Never lived out of the nation since they were born? A Not since we moved here.
Q Annie B. has lived here for twenty-one years? A Yes sir.
Q And the other child has lived here since its birth all the time? A Yes sir.

Alonzo M. Fishback et al.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. L. Rothrock

Subscribed and sworn to before me this 17th day of October, 1902.

B. O. Jones
Notary Public.

Cherokee-7231.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, February 28, 1905.

In the matter of the application for the enrollment of James G. Wilson as a citizen by intermarriage of the Cherokee Nation.

James G. Wilson, being first duly sworn, testified as follows:

Q. What is your name? A. James D. Wilson.
Q. How old are you? A. 46.
Q. What is your post office address? A. Texana.
Q. Are you a white man? A Yes sir.
Q. You claim no right as a Cherokee by blood? A. No sir.
Q. You claim through intermarriage? A. Yes sir.
Q. Through whom do you claim your intermarried right? A.
A. Melvina Wilson.
Q. What was her maiden name? A. Melvina Kelley.
Q. When were you married to her? A. January 2, 1887.
Q. Did you have a tribal license ? A. Yes sir.
Q. Is your license on file with the Commission? A. Yes sir.
Q. Where were you and Melvina Kelley residing at the time of your marriage? A. In Canadian District.
Q. Since your marriage have you lived together as husband and wife? A. Yes sir.
Q. Any separation, abandonment, or divorce? A. No sir.
Q. Where have you lived? A. Right in Canadian District.
Q. Cherokee Nation? A. Yes sir.
Q. Was she your first wife? A. Yes sir.
Q. Were you her first husband? A. Yes sir.

Witness excused.

Eula Jeanes Branson, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 28th. day of February, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 2nd. day of March, 1905.

Myrow White

Notary Public.

Cherokee D-343.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, February 28, 1905.

In the matter of the application for the enrollment of Alonzo M. Fishback as a citizen by intermarriage of the Cherokee Nation.

Alonzo M. Fishback, being first duly sworn, testified as follows:

Q. What is your name? A. Alonzo M. Fishback.
Q. How old are you? A. 47.
Q. What is your post office address? A. Adair.
Q. Are you a white man? A. Yes sir.
Q. You claim no right as a Cherokee by blood? A. No sir.
Q. Do you claim by intermarriage? A. Yes sir.
Q. Through whom do you claim your intermarried right? A. Leavina A. Fishback.
Q. What was her maiden name? A. Dawson.
Q. Is she a Cherokee by blood? A. Yes sir.
Q. On the final roll? A. Yes sir.
Q. Were you married to her under the Cherokee law? A. Yes sir
Q. When were you married to her? A. On the 17th. day of May, 1893.
Q. Were you both residents of the Cherokee Nation at the time of your marriage? A. Yes sir.
Q. How long had you been living in the Cherokee Nation at that time? A. 10 years, I guess.
Q. Was she your first wife? A. Yes sir.
Q. Were you her first husband? A. Yes sir.
Q. Any separation, abandonment or divorce? A. No sir.
Q. Where have you and she always lived since your marriage? A. In the Cherokee Nation.
Q. Have you made your home anywhere else than in the Cherokee Nation? A. No sir.
Q. Is your wife living? A. Yes sir.

(The wife of the applicant is identified on Cherokee card 10766.)

Q. Were you married more than once to your wife? A. Yes sir, I was married in Texas the first time, and after I was admitted to citizenship I was married again.
Q. Were you admitted by the Council? A. Yes sir.

Eula Jeanes Branson, being duly sworn, states that the above and foregoing is a full and complete transcript of the stenographic notes taken by her in the above entitled cause on the 28th. day of February, 1905.

Eula Jeanes Branson

Subscribed and sworn to before me this the 2nd. day of March, 1905.

Myrow White

Notary Public.

Cherokee-4712.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, March 1, 1905.

In the matter of the application for the enrollment of Charles M. Beaver as a citizen by intermarriage of the Cherokee Nation.

Charles M. Beaver, being duly sworn, testified as follows:

Q. What is your name? A. Charles M. Beaver.
Q. What is your post office address? A. Claremore, I.T.
Q. How old are you? A. About 57.
Q. Are you a white man? A. Yes sir.
Q. You claim no right as a Cherokee by blood? A. No sir.
Q. Are you an intermarried citizen? A. Yes sir.
Q. What is the name of the Cherokee wife through whom you claim your intermarried right? A. Sarah Ann Cannon.
Q. Was she your first wife? A. Yes sir.
Q. Were you her first husband? A. No sir.
Q. Was her former husband living at the time of your marriage to her? A. No sir.
Q. Did she have a living husband at the time of her marriage to you from whom she had not been divorced? A. Not that I knew of.
Q. You are on the '80. roll? A. Yes sir.
Q. When were you married? A. I think it was the 22nd. day of February, 1872.
Q. Were you married in the Cherokee Nation? A. Yes sir.
Q. Did you have a tribal license? A. Yes sir.
Q. Since your marriage in 1872 where have you and she lived? A. In the Cherokee Nation.
Q. Have you lived anywhere else than in the Cherokee Nation from the time of your marriage to her up to and including September 1, 1902? A. No sir.
Q. Any separation, abandonment, or divorce? A. No sir.

WITNESS EXCUSED.

Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 1st. day of March, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 2nd. day of March, 1905

Myron White

Notary Public.

CHEROKEE. D 343

Albert M Fishback et al

I V

April 12, 1904. Nos 2, 3 & 4
transferred to Cherokee 10766.

OCT 12 1907 [illegible] transferred
to [illegible]

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

See D 398 H

Cher D 344

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 28th, 1906.

IN THE MATTER OF THE APPLICATION OF GEORGE W. TAYLOR, FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN, AS CHEROKEE CITIZENS.

The said George W. Taylor, being sworn and examined by Commissioner F. P. Breckinridge, testified as follows:

Q Give your full name, please.
A George W. Taylor.
Q How old are you? A Fifty-four.
Q What is your post office? A Afton Indian Territory.
Q What district do you live in? A Delaware.
Q When is it you want to have put on the roll? A I want to have myself and my wife and children.
Q How many children? A Four.
Q Do you apply for yourself as a Cherokee by blood? A No, sir; I am a white man.
Q Is your wife a Cherokee? A Yes, sir.
Q What proportion of Cherokee blood has she? A Why her father was a pretty near full blood, and her mother a half breed.
Q About three quarters? A Yes, sir.
Q Have you got your marriage license and certificate? A Yes, sir.

THE COMMISSIONER: The applicant presents an official copy of his marriage license issued by the Clerk of Saline District September 25th, 1880, authorizing his marriage to Miss Maggie Dowping, a Cherokee citizen, and the ceremony was performed in accordance with said license on October 2nd, 1880 by the clerk of the District. This paper is filed herewith.

Q She is dead is she? A No, sir; she is living. We lived together about six weeks and she run off with another man and never lived with her after that at all.
Q She quit you after six weeks? A Yes, sir.
Q Have you ever been divorced from her? A Well, I donet know any further than I made application for Mr. J. C. Boudinoit and he was the clerk of the District at Tahlequah and he said the divorce went through.
Q Did you ever get any copy of the decree? A No, sir.
Q You have been married twice have you? A Yes, sir.
Q Are these children all the children of one mother? A Yes, sir.
Q The present wife? A Yes, sir.
Q Are you on the roll of 1880? A No, sir the roll of 1880 was taken in the spring. A
Q Now you have married again? A Yes, sir.

THE COMMISSIONER: The applicant presents a certificate signed by L. Robson, a minister of the gospel, to the effect that on December 25th, 1892, the applicant was united in marriage to Martha Whipire. This certificate is filed herewith.

Q When did you apply for a divorce from your first wife? A I applied some time along in July, I think it was.
Q Of what year? A 1892.
Q And when did the clerk tell you it had gone through? A The clerk told me it had gone through about the following December 20th. I cannot remember the exact date.

Q You think you heard the divorce was granted about 1888? A Yes, sir.
Q In December? A Yes, sir.
Q Are you at present married to this woman Martha Whitmire? A Yes, sir.
Q Is she a white woman or a Cherokee? A She is a Cherokee.
Q How old is she now? A She is about forty four.
Q Give me the names of your children.
A Robert O. Taylor.
Q How old is that child? A Sixteen.
Q What is the name of the next? A Georgia W. Taylor.
Q How old is that child? A Twelve.
Q The next child? A Frank E.
Q How old is that child? A He will be eleven in November.
Q The next child? A William H.
Q How old is that child? A Eight.
Q Is that all? A Yes, sir.
Q What district did Martha Whitmire live in in 1880? A Cooweescoowee, I think. She may have been listed as colored, but that was a mistake.
Q What district were you in in 1896? A In Delaware.
1896 Roll, page 542, No. 3127, Martha D. Taylor, Delaware District. (Note: This name does not appear on the 1880 Roll)
1896 Roll, page 590, No. 546, George W. Taylor, Delaware District.
1896 Roll, page 524, No. 3128, Robert Owen Taylor, Delaware District.
1896 Roll, page 524, No. 3129, Georgia M. Taylor, Delaware District.
1896 Roll, page 524, No. 3130, Frank E. Taylor, Delaware District
1896 Roll, page 524, No. 3131, William H. Taylor, Delaware District.
1880 Roll, page 752, No. 534, Sissy Downing, Tahlequah District.

Q Your present wife has lived in the Cherokee Nation all her life? A Yes, sir.
Q Your first wife has lived in the Cherokee Nation all her life? A Yes, sir.
Q She was born in the Cherokee Nation, wasn't she? A Yes, sir
Q These children are all living at this time? A Yes, sir.
1880 Roll, page 752, No. 589, James Downing Tahlequah District.

THE COMMISSIONER: The applicant applies for the enrollment of himself, his wife and four children. He is shown by the marriage license and certificate filed herewith to have been married to one Maggie Downing in 1880; that marriage was after the roll of 1880 was made. That wife is identified under the name of Sissie Downing on the roll of 1880. They lived together some six months and separated. He does not present satisfactory proof of having procured a divorce, or show conclusively whether he obtained it or not. His second marriage is to a Cherokee woman, but in view of the doubt surrounding the claims that he acquired under his first marriage, the applicant, who is identified on the roll of 1896, and who has lived in the Cherokee Nation ever since his first marriage, will now be placed upon a doubtful card.
As for his present wife, Martha Taylor, she is identified on the roll of 1896 as a native Cherokee. While she cannot be identified on the roll of 1880, as her family are all upon that roll, and she is almost a full blood and she has lived in the Cherokee Nation all

life, and she will be listed now for enrollment as a Cherokee by blood. Their four children enumerated in the testimony are identified with their parents on the roll of 1896; they are all living at this time, and will be listed for enrollment as Cherokees by blood.

Applicant Excused.

The undersigned being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in the above application, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 28th day of September, A. D. 1906.

Commissioner.

D344

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 28 1900

ACTING CHAIRMAN

"R"

SUPPLEMENTAL; CHER. D-344.

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I.T., November 27, 1901.

In the matter of the application of George W. Taylor for enrollment as a Cherokee Indian citizen by intermarriage; etc.

Appearances:
Applicant present in person.

MARTHA CRITTENDEN, being sworn and examined testified as follows:
BY COMMISSION:
Q What is your name? A Martha Crittenden.
Q How old are you? A I will soon be 66.
Q What is your post-office address? A Tahlequah.
Q Are you acquainted with George A. Taylor, who is an applicant before the Commission for enrollment as a citizen by intermarriage? A Yes sir.
Q How long have you known him? A It has been a good many years, I don't recollect.
Q Did you know his wife? A Yes sir.
Q What was her name? A Martha Downing.
Q He was married to her about how long ago? A It has been about 13 or 16 years ago I reckon.
Q How long did they live together as husband and wife? A They are living together yet, I am speaking of his wife that he now lives with.
Q Was he previously married before he married Martha Downing? A They said he was and I suppose he was.
Q Did you know his first wife? A Yes sir.
Q Was she a Cherokee or a white woman? A She was a Cherokee.
Q How long did he and his first wife live together? A But a short time I am informed.
Q Mr. Taylor himself is a white man? A Yes sir.
Q Did he leave his wife or did she leave him? A Why she must have left him.
Q Why? A She said she wouldn't live with him.
Q Did she give any reasons for it? A None particular.
Q Did he treat her always as a man should a wife? A That is what her sisters and brothers all said, and from all appearance he must have.
Q Were you living near them at that time? A They lived about 14 or 15 miles from where I did, but she was at my house and then is when he found out I suppose.
Q Did she come to your house when she left him? A She come to my house, but I don't know whether she want then that she had left him then or not, but she come to my house.
Q Did she tell you why she left him? A No, she just said she wouldn't live with him.
Q Was George W. Taylor ever divorced from this first wife? A I can't tell you about that.
Q Do you know what his first wife's name was? A Yes, sir.
Q What was it? A Narcissa Downing.
Q That was his first wife? A Yes sir;-that is I am satisfied that it was her fault they didn't live together.
Q Do you know whether or not Mr. Taylor always provided for his wife, did he support her? A From all appearances he did and her sisters said he did.
Q You never heard that he abused her in any way? A No sir.
Q Did she ever tell you that she had been abused in any way? A No sir.
Q The only reason she gave for leaving was that she didn't want to

live with him any longer? A She didn't want to live with him.
Q After she lef him did thexx she take up with another man? A Yes sir.
Q How long afterwards? A Not but a short time, that is, they told me she took up with him, and from what I saw I am satisfied she did, at the time she should have met her husband he come to the wagon to help her out and she flirted off to the other side of the wagon and if they ever spoke to each other after that I never saw it.
Q About how long after she left George W. Taylor was it until she began to live with this other man, living with him she begun to live with this other man? A I don't know, it was not long.
Q Was it a year? A No sir, not that long. While they were at my house the man was there and I saw what was the matter.
Q Did she ever go off with that man? A No, they went home and he went up there, so I heard.
Q That was before his marriage to his present wife Maggie? A Yes sir.
Q How long after that didhe marry his present wife? A I can't tell you, it was not so powerful long.
Q You are certain that he didn't marry his present wife until after his first wife begun to live with this other man? A No sir he didn't.

WITNESS EXAMINED BY APPLICANT, GEORGE W.TAYLOR:

Q Mrs. Crittenden, will you state there to the Commissioner whether this Cissy, alias Maggie Downing, my former wife, ever had a child by Dick Crittenden? A She had a child and said it was Dick Crittenden's.
Q Is that child still living? A It was the last time I heard of him; I suppose it is living.

BY COMMISSION:

Q How long after her separation from George W. Taylor was this child born? A I can't tell that, but it was not a great while.
Q Do you think it was as much as a year? A I don't know.
Q Was it more than that? A Will be very little, I don't know exactly.
Q Could it have been less? A Yes sir, it might have been less; you see I have got very poor recollection and paid no attention to anything of the kind.

COMMISSION: This testimony will be filed in the case of George W. Taylor, D-344.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 3 December 3, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
DEC 12 1901

ACTING CHAIRMAN.

SUPPLEMENTAL: Cher. D-344.

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I.T., November 27, 1901.

In the matter of the application of George W. Taylor for enrollment as a citizen by intermarriage of the Cherokee Nation,

G.W.BENGE, being sworn and examined, testified as follows:
BY COMMISSION:
Q What is your name? A G.W.Benge.
Q How old are you? A I am 49 or 50.
Q What is your post-office address? A Tahlequah.
Q Are you acquainted with the applicant, George W. Taylor? A Yes sir.
Q How long have you known him? A Since '86. About along the year of '86.
Q Did you know his first wife, Narcissa Taylor? A No sir, I don't suppose I did, I don't know as I remember ever saw her.
Q Do you know when he was married to her? A No sir.
Q You don't know anything about his marriage and separation? A No sir.
Q Has he always been recognized as a citizen? A Yes sir, since I have known him.
Q Since you have known him, that has been since '86? A Yes sir.
EXAMINED BY APPLICANT, GEORGE W.TAYLOR:
Q Mr. Benge, will you please state whether or not that you ever held the position of or office as circuit judge of the Northern Judicial of the Cherokee Nation? A Yes sir.
Q Will you state whether George Taylor at that time ever acted in your court as assistant clerk, deputy clerk? A I think so, I think it was only temporarily, as well as I remember.
Q Will you state from what you know, was there ever such an organization ever existed in the Cherokee Nation known as the National Kestoowah Organization? A Yes sir.
Q Could a person belong to that Keetoowah Organization if there was any doubts about his being a citizen? A I don't know exactly how to answer that, whether I would be able to answer that.
Q Well, to your best knowledge and belief? A Why I might answer that this way, those who constitute that organization or the membership are citizens of course, but I don't know whether I would be safe in saying any one else could or not.
Q Well, not being a lawyer I will get it around in some other way, I am not as smart as these attorneys-
BY CALEB STARR, on part of Cherokee Nation: Comes now the Cherokee Nation, by its representatives, and object to the questions as to the applicant being or belonging to the Keetoowah Organization, upon the grounds that it is immaterial.
BY COMMISSION: The objection will be noted.
APPLICANT, QUESTIONING WITNESS:
Q Mr. Benge, will you state whether or not the George Taylor was a delegate from the Keetoowah Organization to the Nomination of Principal Chief at Clear Springs in the year that Rabbit Bunch was nominated for Principal Chief? A Yes sir.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D.Green

Subscribed and sworn to before me this Dec.3,1901.

"E"

D 344

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 28, 1902.

In the matter of the application of George W. Taylor, for the enrollment of himself as a citizen of the Cherokee Nation:

Applicant was notified by registered letter on February 5, 1902, that his application for enrollment as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory on the 25th day of February, 1902.

Receipt was acknowledged of the Commission's letter, and on said day applicant appeared, and moved that his case be continued until the 28th day of February, 1902. His request was complied with and the same was this day, to-wit: the 28th day of February, 1902, called, and the applicant failing to appear either in person or by attorney, it is directed that the case be closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cherokee D 344.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 13, 1902.

In the matter of the application of George W. Taylor for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

GEORGE W. TAYLOR, being sworn, testified as follows:

By the Commission?

Q What's your name? A George W. Taylor.
Q What's your age? A Fifty-six.
Q What's your postoffice? A Afton.
Q What's your wife's name? A Martha Whitmire.
Q Is she a Cherokee by blood? A Yes, sir.
Q Living at this time? A Yes, sir.
Q When were you married? A 28th of December, 1888.
Q Were you ever married before you were married to your wife, Martha? A Yes, sir.
Q How many times? A Once.
Q What was your first wife's name? A Maggie Downing.
Q Were you married to your wife, Maggie Downing, under Cherokee license? A Yes, sir.
Q Did you file it with the Commission? A Yes, sir.
Q Was your last wife, Martha, a Cherokee? A Yes, sir, she was a sister to my first wife.
Q Was your first wife dead at the time you married your second wife? A No, sir, she was living.
Q What was the cause of your separation? A Abandonment and other things.
Q Did you leave her? A No, sir, she left me.
Q Where were you living? A In Tahlequah; perhaps I can make that plainer if I make a statement.
Q What is the statement? A The day I was married there was a racket come up and a couple of fellows was killed, and she left me and went off with one of the guards, and after I got through with the trial I applied for a divorce.
Q You got the divorce? A Yes, sir, I suppose I did. Boudinot said it was granted, and when I came back from teaching school I asked Allen Ross and he said the case was granted in my favor.
Q For this last wife you did not take out a license? A They did not issue one because my marriage license showed I was married according to the laws of the Cherokee Nation.
Q Had your first wife ever been married before she was married to you? A No, sir, not that I know of.
Q Have you and your last wife lived together since the date of your marriage up to the present time? A Since '88.
Q Never been separated? A No, sir.
Q Were you and she living together as husband and wife on the first day of September, 1902? A Yes, sir.
Q Have you lived in the Cherokee Nation all the time since '88 up to the present time? A Yes, sir.
Q Never been out of the Territory? A No, sir.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 25th day of October, 1902.

Notary Public.

344

Cherokee D-324.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of George W. Taylor for enrollment as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

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The record in this case shows that on September 18, 1900, George W. Taylor appeared before the Commission at Vinita, Indian Territory, and made application for his enrollment, among others, as a citizen by intermarriage of the Cherokee Nation. Further proceedings were had in the matter of said application at Tahlequah, Indian Territory, on November 27, 1901, and at Muskogee, Indian Territory, on October 13, 1902. The other parties to the application are differently classified, and are not embraced in this decision.

The evidence in this case shows that George W. Taylor was lawfully married under authority of a Cherokee marriage license, on October 8, 1880, to one Maggie Downing, a citizen by blood of the Cherokee Nation. After having lived together as husband and wife for about six weeks his said wife abandoned and left him.

It further appears that subsequent to the said abandonment George W. Taylor applied for, and secured a divorce, dissolving the bonds of matrimony heretofore existing.

The evidence further shows that the applicant was again married on December 28, 1888 to one Martha Whitmire, also a citizen by blood of the Cherokee Nation.

Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), provides for the enrollment of Cherokee citizens, "with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Section 666, of the Compiled Laws of the Cherokee Nation (1892) is as follows:

"Should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person, (as the case may be), having no rights of Cherokee citizenship by blood; in that case, all of his or her rights acquired under the provisions of this act shall cease."

The evidence in this case shows that the applicant secured rights of Cherokee citizenship through intermarriage with his first wife, Maggie Downing, and that subsequent to her abandonment of him, and his divorce from her, he married his present wife, Martha, a citizen by blood.

The evidence further shows that George W. Taylor is identified on the Cherokee Census roll of 1896, and has lived in the Cherokee Nation continuously with his said wife, Martha, since 1888 up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that George W. Taylor should be enrolled as a citizen by intermarriage of the Cherokee Nation, under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED): Tams Bixby.
Acting Chairman.

(SIGNED). T.B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

Feb - 11 1902

Friend Hasling
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George M Tiffe died
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[illegible] Harold [illegible]
[illegible] the [illegible]

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-344.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of George W. Taylor for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-206.

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800
233

W. W. Hastings

Muskogee, I. T.

IN THE MATTER OF THE APPLICATION OF

George W. Taylor et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A - Original testimony - September 18. 1900
B - Memo of application - " 18. 1900
Supplementary testimony 11/27/01
Supplementary testimony 11/27/01
Notice of final consideration

See Cherokee Docket 2974

Cher D 345

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 19th, 1900.

IN THE MATTER OF THE APPLICATION OF Polly A. Sarahua and child, for enrollment as citizens of the Cherokee Nation, and she being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your full name? A Polly A. Sarahua.
Q What is your age? A I do not know: About thirty nine I guess.
Q What is your Postoffice? A Fairland.
Q What district do you live in? A Delaware.
Q Who is it you want to have put on the roll; yourself?
A Myself and one child.
Q Do you apply as a Cherokee by blood? A Yes sir.
Q Is the child under twenty one years of age? A Yes sir.
Q What proportion of blood do you claim? A My mother was one half.
Q How long have you lived in the Cherokee nation? A I was born and raised here.
Q What was your name before it was Sarahua? A Polly A Hurt.
Q What is that "A" in there for? A I have a middle name, Ann.
Q You give your name now as Sarah -? A Yes sir; Sarahua; that is my husbands name.
Q Was Hurt your maiden name? A Yes sir.
Q When were you married to your husband? A In 1876.
Q Are you on the roll of 1880? A No sir. I was with him at home at that time.
Q Where was that? A In the Wyandotte Nation.
Q When did you come to the Cherokee Nation?
A I have been back ten years.
Q Ten years? A Yes sir.
Q Is your husband living or dead? A He is living.
Q Why does he not apply for enrollment? A He is not here: He intended to be here, but went away yesterday and missed the train and did not get back.
Q Are you on the roll of 1896? A I am on all of the rolls that have been made lately.
Q Give me the name of your child? A Frank Sarahua.
Q How old is that child? A Sixteen years old.
Q Is that child now living? A Yes sir.
Q Give me your husband's full name? A Richard Sarahua.
Q He is a Wyandotte, is he? A Yes sir.
Q When did he come to the Cherokee Nation? A Ten years ago.
Q You and he have lived here ever since, have you? A Yes sir.
(1896 Roll, Page 329, 2741, Polly Sarahua, Delaware District)
(1896 Roll, Page 329, 1, Richard Sarahua, Delaware District)
(1896 Roll, Page 329, 2742, Frank Sarahua, Delaware District)
Q What is the name of your mother? A Rachel Forrester.
Q Thought you said your maiden name was Hurt? A I thought you said my mother.
Q Then she was your father's wife, she was a Hurt, was she?
A Yes sir.
Q Rachel Hurt? A Yes sir.
Q Was she a Cherokee? A Yes sir.
Q Is she dead or living? A Dead.
Q How long since she died? A Died when I was a baby.
Q Before 1880? A Yes sir.
Q Was your father a Cherokee? A No sir; white man.
Q Is he on the roll of 1880? A Yes sir.

By Mr J. L. Rauch, Cherokee Representative:
Q When did you go to the Wyandotte Nation? A I went there about three or four years before I was married.
Q When were you married? A 1876.
Q Where was you married? A At the residence of Mr. and Mrs. Laughlin.

Q You and your husband then took up your residence there after that, did you not? A Yes sir; for a while.
Q For how long? A I can not say just how long; quite a while.
Q You made a statement a while ago that you came back in 1890; did you and your husband live in the Wyandotte Nation until then ?
A Yes sir.
Q Did you ever go before the National Council and ask admission, or readmission to Cherokee citizenship? A Yes sir.
Q Did they admit you? A Yes sir.
Q Have you your certificate of admission? A No sir; he said I did not need any.

By the Commission:
Q You got it, did you? A He said I did.

The applicant applies for the enrollment of herself and one child. She claims to be a Native Cherokee, but is not identified on the roll of 1880. She states that she was in the Wyandotte Nation with her husband, whom she married in 1876: She did not move to the Cherokee Nation until 1890: She is identified on the roll of 1894: She has lived in the Cherokee Nation with her husband ever since 1890. Her application at this time will be put upon a "Doubtful Card", and her child, Frank Sarahne is identified with her upon the roll of 1896: His status is substantially the same as that of his mother: His father is a Wyandotte Indian, and the application for this child will now be placed upon a Doubtful Card, and the final decision will be communicated to the applicant at her Postoffice address, and it will be forwarded to the Secretary of the Interior for his approval.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Graves

Subscribed and sworn to before me
this 20th day of September, 1900.

C O M M I S S I O N E R.

D345

S U P P L E M E N T A L T E S T I M O N Y .

Cher. D.#348.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I. T., MAY 28th, 1901.

In the matter of the enrollment of Polly A. Sarahas, et al., as citizens of the Cherokee Nation by blood; the following supplemental testimony is offered on the part of Applicants:

MARTIN HENDERSON BERRY, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

APPEARANCES:
Mr. Edgar Smith, Attorney for Applicants.
Mr. W. W. Hastings, Cherokee Representative:

Q Give your full name. A Martin Henderson Berry.
Q How old are you? A I am 72.
Q What is your post office? A Fairland, Indian Territory.
Q How long have you lived in the Cherokee Nation? A About 58 years.

BY MR. SMITH:

Q Mr. Berry, do you know Polly A. Sarahas? A Well, sir, I know her.
Q How long have you known her? A I have knowed her ever since peace, off and on.
Q Do you know who her mother was? A Her mother was Rachel Foster and her father was Bill Hurt, and she was born at the Gilstrap Ferry on Grand river.
Q About what time as well as you can remember? A Well it was along in the summer I reckon, spring or summer, along in the spring of '62, as well as I recollect.
Q Did this woman, Foster or Forester, that you speak of have any brothers or sisters that you knew? A Yes, sir.
Q What were their names? A Wiley Foster and Minerva Foster.
Q Where did Wiley live? A When the war come up he lived on what they call the old Jake Alberty place, near Gilstrip Ferry, right at the ferry.
Q Was this Mrs. Foster, who was the mother of Polly Sarahas, a Cherokee Indian? A Yes, sir, as far as I know she was.
Q Well, what do you mean by saying as far as you know? A I don't know, Hooley Bell ain't no Indian any further than any other man as far as I know, of course they were citizens here ever since I come here.
Q Well, did she pass for an Indian, is that your understanding? A Yes, sir.
Q Now, do you know when her mother died, Polly Sarahas's mother? A She died in the tme of the war.
Q During the war? A Yes, sir, during the war.
Q Well do you know where or what became of Polly Sarahas during the war? A Yes, sir.
Q Where did you next see her? A I saw her after peace, moved right back to Gilstrap ferry, small girl.
Q Who brought her back? A Her father.
Q What did you say her father's name was? A Hurt.
Q Bill Hurt? A Bill Hurt.
Q Where is Gilstrap ferry? A It is right below this railroad about six miles.
Q Is it in the Cherokee Nation? A Yes, sir.
Q Well, how long did Bill Hurt as you call him, remain there when he came with with his little girl? A Remained there two or three years.
Q Is he living or dead? A He is dead.
Q About when did he die? A Well.
Q About how long after he came back as near as you can remember?

A Some four or five years, maybe six I can't tell; I can't remember that far back just how long he did live.
Q When he died can you state what became of this little girl, Polly Sarahas? A Well, sir, her step-mother took her back up in the Wyandotte Nation and left her.
Q About how old was she when her mother took her back up in the Wyandotte Nation? A I say about ten or fourteen years old.
Q Some where between ten and fourteen? A Yes, sir.
Q Well what became of her if you know; did she continue to live in the Wyandotte Nation? A She lived right there until she was married.
Q Whom did she marry? A Married Mr. Sarahas, a Wyandotte Indian.
Q Richard Sarahas, or do you know his name? A I don't know, neighbor to him too.
Q Well where has she been living she she married Sarahas? A She lived a little while in the Wyandotte Nation and then he moved over here.
Q What do you mean by over here? A Over in the Cherokee Nation.

BY W. W. HASTINGS:

Q Mr. Berry, I don't believe I have got your post office address? A Fairland, Indian Territory.
Q How far do you live from Fairland? A I live right in it.
Q How long have you lived there? A In Fairland?
Q Yes, in the neighborhood. A Well I have lived ever since the year sixty in the neighborhood only during the war.
Q You knew Mrs. Sarahas then before the war? A She was born right at the beginning of the war, '61 I reckon, as nigh as I can come at it.
Q How far is Gilstrap's ferry from Fairland? A It is about seven miles.
Q East? A Yes, sir, pretty nigh due east.
Q What river does that cross, Neosho or Grand river? A Grand river in below the mouth of Neosho.
Q Is Neosho or the Grand river the division line between the Cherokee Nation and the Wyandotte? A Yes, sir.
Q What was Mrs. Polly Sarahas' father's name? A It was Hurt, William Hurt.
Q On which side of Grand river did William Hurt live in 1861? A He lived on the west side.
Q Was William Hurt himself a Cherokee by blood? A No, sir, he was a white man.
Q You claim that his wife who was Polly Sarahas' mother was a Cherokee by blood? A Yes, sir.
Q And recognized Cherokee? A Oh, yes.
Q Well, after the war was over you saw this applicant directly after the war, you state? A Yes.
~~Q xxxxxxxxxx xxx xxxx xxx xxxx xxxx xxxx xxxx x xx, xxx~~
Q Her mother was dead then was she? A Oh, yes.
Q And her father married another woman? A Yes, sir.
Q And then Polly was taken across over into the Wynadotte country? A Yes, sir.
Q She married a Wyandotte didn't she? A She married a Wyandotte, sir.
Q She testifies that she went there prior, two or three years before '76? A Well I can't say what time she went there, but it was since the war.
Q And she testified that she came back here about the year '90, is that correct? A (No response.)
Q About eleven years ago when she came back? A Well I guess it is about correct, because they have got a big farm right this side of Vinita, they have got a big farm there, I guess she is right.

Q Then this woman lived there about 17 or 18 years over in the Wyandotte country? A I guess so, sir.
Q And her husband was a citizen over there? A Yes, her husband was a citizen in Wyandotte, but he is living inside of the Cherokee Nation, he has got land himself over there; he is a Wyandotte but she would not hold her and her children.

BY COM'R BRECKINRIDGE:

Q Mr. Berry, do you know whether Polly Sarahas owned any property in the Cherokee Nation while she was living with her husband in the Wyandotte Country? A I do not, I don't know.
Q Well, do you know whether she w as living in the State of Kansas or up on the Wyandotte Reservation? A She was up on the Wyandotte Reservation right South of Seneca, down away below Kansas.
Q You speak of not permitting herself to be recognized or enrolled or something of that sort as a Wyandotte; did you know anything about that? A I don't guess, sir, that she was ever enrolled as a Wyandotte.
Q Do you know anything about that? A I know only, know they always called her a Cherokee.
Q Were you living there in the Wyandotte country? A I was living joining on the river about eight miles from where they lived.
Q I understand you to say that she is generally recognized there as a Cherokee and not a Wyandotte? A Yes, sir.

COM'R BRECKINRIDGE: This will be filed as supplemental testimony case D. #345, and attention will be called to it on the card.
A set of this testimony will also be filed with the case of Alberta Long, D. #347, and a note will be made of it on her card.

---oooOOOooo---

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rossen

Subscribed and sworn to before me this 29th day of May, 1901.

Commissioner.

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Cherokee D 345.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS, in the matter of the application of Polly A. Sarahas for enrollment as a Cherokee citizen.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I. T., Attorneys for the applicant;
Mr. W.W. Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter on February 6th, 1902, that this case would be taken up by the Commission for final consideration on the 25th day of February, 1902. The applicant this day appears by her attorneys, Mellette & Smith, Vinita, Indian Territory.

(Four witness sworn)
L.B.BELL, being sworn and examined on behalf of the applicant, testified as follows:
BY MR. MELLETTE:
Q State your name? A L. B. Bell, 63, Vinita.
Q Do you know the applicant, Polly A. Sarahas? A Yes sir.
Q How long have you known her? A Since about '72.
Q Where was she when you first got acquainted with her? A Delaware District, Cherokee Nation.
Q How old was she at that time? A She looked like she might be 12 or 13 years old.
Q Who was she living with? A With her father, William Hurts.
Q Do you know her mother? A Yes sir.
Q Where were they living? A Her mother was dead at that time.
Q Where was she living with her father? A At the mouth of Cabin Creek, what is known as Pensacola post-office now.
Q Cherokee Nation? A Cherokee Nation.
Q What do you know about her blood? A Well I only know this much; I was acquainted withhermother, that is Bill Hurts' wife, said to be her mother. Her name was Rachel Forester; she was a sister of Wiley Forester, of the family of folks that lived on the Verdigris they were Cherokees, and this woman married Bill Hurts along about '58 or '9, at the beginning of the war, and they moved up to Grand River, about Gilstrap's Ferry, and she died, I never saw them any more until after the close of the war; he moved into my neighborhood and had this girl with him and kept her there after that. And she was proved up before the Old Settler Cherokee roll as a Cherokee; I was in there with her, and there she was enrolle d and paid the money that was due her mother on that account.
BY MR. HASTINGS:
Q What do you say her mother's name was? A Rachel Forester I think.
Q Did you know her mother personally? A Yes; lived right in the house with her for a while.
Q When? A Along about '57 or '8.
Q Did you know her after she married Hurt? A No sir, I never saw her after that.
Q You never saw her then after '57 or '8? A I never saw her after within a year I reckon before she married Hurt; she was a single woman the last time I saw her; I heard afterwards she married Bill Hurt.
Q Then who the mother of this girl was is hearsay to you? A Wholly, except-
Q You never knew that Rachel Forester after her marriage to Hurt at all? A No sir.
Q She was dead after the war when you knew Hurt? A She must have died in '62 or '3 from what I could learn of her. I was then grown;

I never saw her after I left Wiley Forester's house.
Q And you saw this girl in '72 or '3 afterwards? A About '72 I reckon. They lived right there in my neighborhood and left there, Bill Hurt died there and he had married a state woman and she moved out, into the Miami Nation and took this girl with her, and she has been there I guess ten years.
Q Well this woman is not on the 1880 roll? A I don't think she is; she never was recognized as a citizen of the Cherokee Nation up until the Strip payment of 1894 was she? A Not by any official act as I know about.
BY MR. MELLETTE:
Q You say she was recognized by the old settlers? A Oh yes, Polly here proved before the Commission and was put on there and dres her mother'spart of the old settler money.
BY MR. HASTINGS:
Q That is a matter of record? A Yes sir.
BY MR. HASTINGS: Then I object to that testimony.
Q That isn't a blood roll is it, the heirs of people that are on that roll? A Not necessarily.
Q Person is not necessarily a citizen that's an heir to the person that's on that roll? A No, that's my judgment, that they wouldn't have to be a citizen.
Q Fact of the business is you know some of them are in California and elsewhere not recognized citizens who heired part of that money? A Yes sir, I know there are some living out of the country that's not citizens, and I expect you would kick on them if they was to appear here.

TESTIMONY TAKEN ON BEHALF OF THE CHEROKEE NATION:

ALEX COPELAND, being first duly sworn, and being examined testified as follows:
BY MR. HASTINGS:
Q Whatis your name? A Alex Copeland.
Q What is your age? A 62 years.
Q What is your post-office address? A Echo, I. T.
Q How far is that from Fairland, how far do you live from Fairland? A About eight miles south.
Q That is in Delaware district? A Yes sir.
Q You are a Cher kee by blood? A Yes sir.
Q Recognized citizen? A Yes sir.
Q Do you know Polly A. Sarahas? A I know her when I see her, I aint personally acquainted with her.
Q How long have you lived in the vicinity of Fairland? A I have lived there off and on ever since '59.
Q Did you know these Forester's that lived around Gilstrap's Ferry? A I never knowed any Foresters living around Gilstrap's Ferry at all.
Q Do you know Will Hurt? A Yes sir, I saw him.
Q When did you know him? A I knowed him '67 and '68, after the war.
Q Did you know him before the war? A No, I didn't know him before the war.
Q Did he have a wife when you knewhim? A I don't recollect whether he did or not.
Q Where did he live at that time? A He lived at Gilstrap's Ferry.
Q That was how far from Fairland? A They call it about six miles.
Q How long have you know n this woman Polly Sarahas? A I have knowed of her ever since '67.
Q I will ask you if she has been recognized as a citizen of the Cherokee Nation? A Never was that ever I knowed of.
BY MR. MELLETTE:
Q That is a matter of record too, if you are going to confine us to the record; I object to that testimony, because it is a conclusion of law.

Q You never knew of her being recognized? A No sir.
Q You never heard her being called a citizen up there? A Never did.
Q You knewof her living up there since '59??A Off and on I have.
Q You know Martin H. Berry, who lived up there? A Yes sir.
Q He testified as a witness in this case; what has become of him since he testified? A I heard he went to Missouri.
Q He has left up there? A Yes sir.
Q Did you ever talk to him about Polly A. Sarahas? A -
BY MR. MELLETTE: I object to it, because it I suppose is to contradict the testimony of the witness, and they didn't lay the foundation for it by asking him if he had any talk any such conversation with this man.
BY COMMISSION: Objection is noted; answer the question.
A Yes.
Q What was it? A When the Dawes Commission was at Fairland Mark Berry come to me and said, "Alex, what you going to do about this Sarahas woman?" I says, I don't know, what you going to do about it? Says he: "She is a white woman." I says, yes. That is the all the conversation we had.
Q Thatis while the Commission was at Fairland? A Yes sir.
Q Was that in the summer of 1900 when they first started out? A When they first started out,
Q Any other Sarahas woman out there than this one? A None that ever I heard of.
Q This Sarahas woman had a sister up there somewhere hasn't she? A They said she has one, I aint acquainted with her.
Q Wheredoes she live? A I think she lives in Seneca, Missouri.
Q You know where thisSarahas woman has lived? A No I don't know she has been there in the neighborhood off and on a good while.
Q Well about how long? A Well I think ever since about '67.
Q Well has her sister been claiming any rights ever there that you heard of? A None that ever I heard of.
Q You have lived in that section of Delaware District ever since the war have you? A Yes sir, I come there in '68 to where I am living now, and been there ever since.
Q You lived there a while before the war? A I was there before the war, I was there in '55.
BY MR. MELLETTE:
Q Now do you say this Polly Sarahas has a sister? A That is what they say, yes.
Q Well you know she has a sister? A No sir.
Q Don't you know she has not any sister? A No.
Q Never had a sister in her life? A No I don't know that.
Q Then you are not going to swear that she had a sister? A No.
Q You are going to take that back? A I wont swear that she has got a sister; they say she has got a sister.
Q Who says? A Mr. Audrain says she has got a sister.
Q I will ask you again if you don't know that she never had a sister, in her life? A No sir, I don't know.
Q You don't know that she has, do you? A I don't know that she has or ever had.

W. SCOTT AUDRAIN, being first duly sworn and being examined, testified as follows:
BY MR. HASTINGS:
Q What is your name?A W. Scott Audrain.
Q Where do you live? A I live near Fairland, Indian Territory.
Q You know Polly Sarahas? A Yes sir.
Q How long have you known her? A I haveknown her about 35 years.
Q You didn't know her father or her mother did you? A I knew her father.
Q Where was this woman living when you first knew her? A When I first knew her she was living near Gilstrap's Ferry.
Q Married to her present husband?A Who, this Polly A. Sarahas?
Q Yes? A No, she was an infant then, a child.

Q Where was she living then? A Living with her father, near this Gilstrap's Ferry.
Q Do you know her mother? A No sir. I don't reckon I know her mother. Mr. Hurt had a wife but I don't know it was her mother.
Q How far did you live from the Gilstrap Ferry? A It is about five miles where I lived at that time, where I live now it is about eight miles.
Q You have lived in that neighborhood ever since haven't you? A Yes sir, I have lived always on my father's place until I settled where I live now.
Q Has Polly A. Sarahas been recognized by the community up there as a citizen? A -

BY MR. MELLETTE: I object to that question.

BY COMMISSION: Objection is entered; answer the question.

A No, she hasnever been recognized as a citizen.
Q You know whether she has a sister or not? A I know there was two girls lived in the same family in '67, back that far; that was of course that's going a long ways back, I don't know positively, that they were sisters, but they were ~~fixing~~ represented to be sisters, as Mr. Hurts' daughters, there was 2 of them.
Q Where is the other one? A Well the last time I saw them together wasin Seneca Missouri.
Q You know whether this woman ever lived over in Seneca, this Polly Sarahas? A Yes sir, she has lived there with this one, her sister, awhile.
Q Now before that Strip payment in 1894, did you ever hear this woman ever claim to be a citizen of the Cherokee Nation? A No sir.
Q You are well acquainted with these older citizens up there around that country? A Yes sir. Now understand me in this matter: I heard before that Bill Hurt claimed a right, and these two girls it was my understanding that they was white girls, that he had been married a number of times, that is the way I always understood it.
Q But you never heard of her being recognized as a citizen up there before that Strip payment or since for that matter? A No.

BY MR. MELLETTE:

Q You say you knew the applicant in '67? A Yes sir, I got back '67, I don't know, but the war,- it was '66.
Q She was living in the Cherokee Nation at that time? A Living in the Cherokee Nation, her father was, and this family near this ferry.
Q Didn't you know the wife of her father at that time was not this woman's mother? A Well sir, that was my understanding, that his wife- that when I knew these children was not this applicant's mother.
Q Don't you know that theother girl that was there was a half sister of this girl? A I don't know.

BY MR. HASTINGS

Q You know Martin H. Berry? A Yes sir.
Q How far did he once live from Fairland, last year or two years ago? A Why last two or three years he has been living in Fairland.
Q Does he live there now? A Well hehas been staying with his son in Fairland, he has no family.
Q Is he staying with his son now? A He has not been there for the last six months and I was asking his son about him and he said he had went to Missouri.
Q Did you ever talk to him about this woman? A I ~~was~~ why yes I have talked with him frequently.
Q Just tell it; with reference to her citizenship? A Why, at the time of the Dawes Commission up there he come to me personally and commenced inquiring of me what I knew about this case and we talked about it, and he told me-

BY MR. MELLETTE: I object to that testimony.

BY COMMISSION: Objection is noted; answer.

A con: He told me he didn't know that this was Rachel Forester's daughter; Mr. Berry told me he didn't know that this was Rachel Forester's daughter, right at the Dawes Commission tent.

BY MR. MELLETTE:
Q Didn't Mr. Berry come from Missouri when he came to testify in that case down at Chelsea, hadn't he been in Missouri before he testified in this case? A Not any length of time. He went on a visit in Missouri and stayed a while; his native home has been in the Territory constantly. Q But he come from Missouri when he testified in this case? A I don't know when he testified.
Q He had been in Missouri before he testified hadn'the; he testifie at Chelsea in June, hadn't he been in Missouri before that? A This last June?
Q May 28, hadn't he been in Missouri before that, and didn't he come from Missori when he came to testify? A I could not say positive; he has been to Missouri; he has been back to visit his friends; some of his relatives I should have said; I don't know, I wouldn't be positive, he might have been there when he testified in that case.

TESTIMONY TAKEN ON BEHALF OF THE APPLICANT.

POLLY A. SARAHAS, being first duly sworn and being examined testified as follows:
BY MR. MELLETTE:
Q Polly A. Sarahas isn't it? A Yes sir.
Q Mrs. Sarahas, the witness Mr. Andrain testified about seeing a young girl with you at your father's house in '67, or along about that time, who was she? A That was my father's sister.
Q Did you ever have any full sister? A No.
Q Did you ever have a half sister? A I had a little small half sister when my father died; I had a step-mother.
Q What was your half-sister's name? A Annie Hurt.
Q Was her mother your mother? A No sir.
Q Different mothers? A Different mothers.
Q Where does she live now? A I don 't know where she is, she left me when I was a small child.
Q The witness, Mr. Andrain, testifies about seeing you in Seneca, Missouri, who were you with there? A I never lived at Seneca I never was out of the Territory only in the Wyandotte Territory.
Q Well do you remember of ever going or being in Seneca with your half sister? A No sir; my half sister was away from me when she was eight years old and I have never seen her since.
BY MR. HASTINGS:
Q Wasn't your half-sister- didn't she marry a Shoemaker? A I never had any to marry.
Q Did your father's sister marry one over there in Seneca? A No sir, my father's sister id dead; she was never married.
Q You never stayed with anybody around Seneca? A No sir.
Q You never stayed there a week at a time? A No sir, I lived in the Wyandotte Nation with a lady, Mrs. Laughlin.
Q You never got any money from the Cherokee Nation up until 1894 did you? A I drawed three payments from the Cherokees.
Q When? A I drawed at the court house.
Q What years? A I don't know how long it has been.
Q Well, before 1894 though? A Oh it was when the last payment was paid there at the court house, I don't know what year it is.
Q Mr. L. B. Bell was your attorney then? A No sir,
Q He didn't act for you during that strip payment? A Yes in the Strip payment.
Q He acted for you as your attorney? A Yes sir.
ELIZABETH NOBLE, being first duly sworn and being examined testified as follows:
BY COMMISSION:
Q Whatis your name? A Elizabeth Noble.
Q What is your post-office address? A Vinita.
BY MR. MELLETTE:
Q Are you the wife of W.H.Noble? A Yes sir.

Q Do you know the applicant, Polly A. Sarahas? A Yes sir, I knew her.
Q Well where did you know her first? A My first acquaintance with her was in the Wyandotte Nation.
Q Was she regarded as a citizen in that Wyandotte Nation in that Miami Country? A She was spoke of as a citizen of the Cherokee Nation.
Q Didn't claim citizenship over there? A Oh now, not that I know of. I never heard anything that way.
BY MR. HASTINGS:
Q When did you know her there? A '73, when she was a girl.
Q Husband of a Wyandotte? A Yes sir.
Q Who spoke of her as a citizen of the Cherokee Nation? A Mrs. Laughlin.
Q Who was Mrs. Laughlin, Wyandotte? A Wyandotte.
Q She was not a Cherokee, Mrs. Laughlin? A No sir, she was a Wyandotte.
Q That is all the woman you ever heard speak of her as a citizen of the Cherokee Nation? A No, I heard several of them speak of her as a Cherokee; I asked what girl that was staying with Mrs. Laughlin and they said it was a Cherokee girl.
BY COMMISSION: The following is offered in evidence by the Cherokee Nation:

"Seneca Training School,
Wyandotte, Quapaw Agency, I.T., February 17,1902
To whom it may concern:
I hereby certify that Polly A. Sarahas received no allotment in any of the reservations in this agency, and that the allotment received by her children in the Wyandotte reservation, Quapa w Agency, Indian Territory, is as follows:
"Elmer Sarahas, son, deceased; E. 1/2 of S.E.1/4 Sec. 18, T. 27 R 25 E, E 1/2 of N.W. 1/4 of Sec.32, T 27 R 25 containing in all 40 acres.
Alberta Sarahas Long, daughter, W 1/2 S.E/ 1/4 Sec 18, T/25, R. 25; W 1/2 N.W. 1/4 of Sec 32, T. 27, R 25, containing in all 40 acres.
Frank Sarahas, son, lot 1, S. N.W. 1/4 sec.17 T 27 R 25; lot 4 N.E. 1/4 sec.18, T 27 R 25, containing in all 34.50.
I further certify that no childrenof Alberta Sarahas Long received any allotment on any reservation of this agency.
The above named children of Polly A. Sarahas are members of the Wyandotte tribe of this Agency, which tribe received no annuities from the U.S. government.
Certified to by me this 17th day of February, 1902.
Horace B. Durant,
Superintendent and acting United States Indian Agent."

BY COMMISSION: The attorney for the applicant and the representative of the Cherokee Nation submit this case to the Commission and same is ordered closed and reported to the Commission for decision, based upon the evidence now of record. The attorney for the applicant requests and will be granted 15 days in which to file in this case a brief, one copy with the Commission and one copy with the representative of the Cherokee Nation.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

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ACTING CHAIRMAN

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 4, 1902.

In the matter of the application of Polly A. Sarahas for enrollment as a citizen of the Cherokee Nation by blood. C. D. 345.

Brief on Behalf of the Cherokee Nation.

#-#-#-#-#-#-#

The testimony in this case shows that the name of Polly A. Sarahas appears only upon the roll of 1896, and that she is thirty-nine years of age, and there is no substantial testimony to the effect that prior to 1894 she was ever recognized as a citizen of the Cherokee Nation.

The next to the last question asked her by the Commission upon her examination in chief was: "Have you your certificate of admission? Answer: No sir, he said I did not need any". And the second question before this was: "Did you ever go before the National Council and ask admission or re-admission to Cherokee citizenship? Answer: Yes sir", and the following question was: "Did they admit you? Answer: Yes sir". These questions and answers show conclusively that the applicant realized that it was absolutely necessary in order to be a recognized citizen of the Cherokee Nation upon her removal to the Cherokee Nation to be re-admitted by the proper court or the National Council. The testimony of L. B. Bell in this case is of no value, for the reason that he did not personally know who the mother of Polly A. Sarahas was. He knew a woman while a girl who was said to have married her father, but he does not claim to have known her father ever married, nor does he undertake to say that he knows of his own personal knowledge that this woman he knew married the father of Polly A. Sarahas. In fact, he never saw her after she

was a girl and never saw her after her marriage. His other testimony to the effect that she drew some Old Settler money is not even persuasive of her blood or citizenship, for the reason that he said himself that many persons, residents of other states and not recognized citizens of the Cherokee Nation, participated as heirs in that payment. The testimony of Martin H. Berry should be very closely scrutinized. Just why the applicant should pick up a non-citizen who is not connected with the Cherokee Nation by blood or otherwise, who is not interested in tracing relationship throughout the country, who is not interested in Cherokee citizenship, when there were so many other available witnesses, to testify in this case is not clear,- unless it is explained by the testimony of Alex Copeland and Scott Audrain. These two witnesses who testified for the Cherokee Nation are men of the highest integrity, and have lived in the vicinity of Fairland since immediately after the war, and they of course know every old citizen within many miles of that place, and they testify positively that this woman was never a recognized citizen of ~~the Cherokee Nation~~ that (Delaware) District, that being the District in which Fairland is located; and they both swear that Berry said the applicant was a white woman and that he did not know who her mother was. Her attempt to be recognized as a citizen seems to date from 1894, which is explained by the fact that a large amount of money was paid out per capita at that time. The records which have been introduced before the Commission shows that from time to time there have been payments in the Cherokee Nation, and if this woman had been a Cherokee by blood as she claims, living just across the line in the Wyandotte Nation the reasonable supposition is that she would have come over to claim her shares in these various payments; but we never hear of her claiming citizenship in the Cherokee Nation

until the large payment of 1894 was made.

As to her children the records show that she has taken an allotment for all of them in the Wyandotte Nation, and if she took an allotment there upon her and their application they must have been recognized as citizens of that Nation, and therefore of course would have no standing in the Cherokee Nation.

But the question of Cherokee blood is not a subject for the present inquiry of this Commission. That was gone into in 1896 under the Act of June 10th. If the applicant had applied at that time and presented proper proof it was within the jurisdiction of the Commission at that time to have admitted her; but the Congress of the United States has restored the Commission beyond that stage. It is now charged by law with the enrollment of recognized citizens of the Cherokee Nation; not to enroll those who have Cherokee blood, but those who have heretofore been recognized as citizens of the Cherokee Nation by the authorities of the Cherokee Nation.

The Cherokee Nation contends that there is no substantial testimony showing that this woman has ever been recognized as a citizen of the Cherokee Nation, although she was illegally enrolled upon the Dawes roll, which was never authenticated. But upon the other hand there is the testimony of her neighbors, two reliable citizens of the Cherokee Nation, to the effect that she was never recognized as a citizen of the Cherokee Nation. Her name is not upon the roll of 1880, which was the only roll intended to be confirmed by the act of Congress; and she not having been re-admitted since that time the Cherokee Nation urgently contends that neither she nor any of her children should be enrolled as citizens of the Cherokee Nation.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

Cherokee D. 545.

Polly A. Scraggs.

Brief on behalf of the
Cherokee Nation.

Cherokee D-345.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., OCTOBER 18, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Polly A. Sarahas et al., as citizens by blood of the Cherokee Nation.

MARY BROWN, being first duly sworn, testified as follows:

BY THE COMMISSION:
Q What is your name? A Mary Brown.
Q How old are you? A About 63, I don't know exactly.
Q What is your post office address? A Ketchum, I. T.
Q Are you acquainted with Polly A. Sarahas? A Yes sir, slightly acquainted with her now.
Q How long have you known her? A I knew her before the war when she was a small child, back to childhood.
Q Where did she live at that time? A She lived at the Alberty place near the old Gilstrap Ferry.
Q What District? A Delaware.
Q With whom was she living when you first knew her? A With her father.
Q What was his name? A William Hurt.
Q Was her mother living at that time? A Yes sir.
Q What was her mother's name? A Elizabeth Hurt.
Q Do you know what her maiden name was? A Yes sir.
Q What was it? A Rachael Forester.
Q How long did you know the mother of Polly A. Sarahas? A I knew her when she was a girl.
Q Before she married Hurt? A Yes sir.
Q Was William Hurt a white man? A Yes sir so far as I know.
Q What nationality was Rachael Forester? A She was a Cherokee as far as I know, never heard nothing to the contrary.
Q Was it your understanding that she was a Cherokee Indian by blood?
A Yes sir.
Q Do you know how much Cherokee blood she claimed to posess? A No sir.
Q From her looks would you have judged her to be a Cherokee Indian?
A Yes sir.
Q About what proportion of blood would you judge her to have had?
A I suppose she would be about one-eighth.
Q Do you know whether or not this Rachael Forester had any brothers or sisters? A None but the one.
Q Just one child? A One brother.
Q What was his name? A Willey Forester.
Q Is he living? A No sir.
Q How long has he been dead? A He got killed during the war.
Q Are the parents of the applicant, Polly A. Sarahas, living, either of them? A No sir, both of them are dead.
Q When did the mother die? A I couldn't tell you, sometime during the war or just after.
Q Before the 1880 roll was made? A Yes sir.
Q Where has Polly A. Sarahas been living since you knew her? A I couldn't tell you, she lives now near Fairland.
Q Do you know how long she has lived there? A No sir.
Q Are you a Cherokee Indian by blood? A Yes sir.

Q Have always been so recognized? A Yes sir.
Q Never have been any question about your citizenship? A No sir.
Q What proportion of Cherokee blood would you judge that Polly A. has? A That is to her, I don't know.
Q Have you any idea? A No sir, I can't say.
Q You would not like to make an estimate at all? A No sir.
Q Is her husband living now? A Yes sir.
Q What is his name? A I can't tell you the names I can't speak.
Q Is he a Cherokee Indian? A He is a Wyandotte is what he passes for.

This was all the testimony submitted in this case on this date.

H. M. Vance, being first duly sworn, states that as stenogrpaher to the Commission to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

H. M. Vance

Subscribed and sworn to before me this the 9th day of December, 1904

Charles H. Sawyer
Notary Public.

COPY

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Polly A. Sarahas, et al., as citizens by blood of the Cherokee Nation, consolidating the applications of:

Polly A. Sarahas, et al.	Cherokee D-348,
Alberta Long, et al.	Cherokee D-347.

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

THE RECORD IN THIS CASE SHOWS: That on September 19, 1900, Polly A. Sarahas appeared before the Commission to the Five Civilized Tribes, at Vinita, Indian Territory, and made application for the enrollment of herself and her minor child, Frank Sarahas, as citizens by blood of the Cherokee Nation. On the same date Alberta Long (nee Sarahas), appeared before the Commission to the Five Civilized Tribes and made application, for the enrollment of herself and her minor child, Elmer L. Long; and subsequently she filed with the Commission an affidavit showing the birth of the said Elmer L. Long, which was filed with and made a part of the record in this case. Subsequently and on February 25, 1902, William Lucien Long, infant child of the said Alberta Long, was listed for enrollment on the filing of proper proof of birth, which is made a part of the record herein.

Further proceedings were had in this case at Chelsea, Indian Territory, on May 28, 1901, at Muskogee, Indian Territory, on February 25, 1902, and October 18, 1904.

The record herein further shows that the principal applicant, Polly A. Sarahas (nee Hurt) was born in the Cherokee Nation about 1861; that her mother, Rachel Hurt (nee Forester) who died about 1862 or '3, was identified with and recognized as a Cherokee citizen; that Polly A. Sarahas resided in the Cherokee Nation from the date of her birth until 1873, when she was taken by her step-mother to the Wyandotte Nation, Indian Territory, where she grew to womanhood and married her husband, Richard Sarahas, a Wyandotte Indian. As the issue of this marriage, Alberta Sarahas and Frank Sarahas were born. It is further shown from the record herein that on May 7, 1899, said Alberta Sarahas was married to William P. Long, a Wyandotte Indian, and as the issue of this marriage, Elmer L. Long and William Lucien Long were born.

The evidence herein further shows that Polly A. Sarahas resided in the Wyandotte Nation from about 1873 until about 1890, when she and her said husband, with their minor children, Frank Sarahas and Alberta Sarahas, returned to the Cherokee Nation, and have since made their home continuously therein. The applicants, Polly A. Sarahas, Frank Sarahas and Alberta Long, are duly identified upon the 1896 Cherokee Census Roll.

The evidence herein further shows that the said Frank Sarahas and Alberta Long are recognized citizens of the Wyandotte Nation; and as such have received allotments of land therein.

Following the decision of the Department in the case of Nancy Sky, et al., (I. T. D. 4991-1902), Frank Sarahas and Alberta Long forfeited their rights to citizenship in the Cherokee Nation when they were recognized as citizens of, and took allotments of land in, the Wyandotte Nation, and by virtue of said forfeiture on the part of said Alberta Long, prior to the birth of her minor children, Elmer L. Long and William Lucien Long, who claim their rights as Cherokees solely through their mother, they can have no rights as citizens of the Cherokee Nation.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 495), Alberta Long, Elmer L. Long, William Lucien Long and Frank Sarahas are not entitled to enrollment as citizens by blood of the Cherokee Nation, and their applications for enrollment as such are accordingly denied; and that under the provisions of said section twenty-one of the Act above cited, Polly A. Sarahas is entitled to enrollment and her application is therefore granted.

(SIGNED) Tams Bixby.
COMMISSIONER.

Dated at Muskogee, Indian Territory,
this SEP 29 1905

DEPARTMENT OF THE INTERIOR.

In the matter of the application of POLLY A. SARAHAS for enrollment as a citizen of the Cherokee Nation by blood, C. D. 345.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commi ssioner, enrolling Polly A. Sarahas as a citizen of the Cherokee Nation of date September 29, 1905, and inasmuch as the Commissioner in his letter transmitting the decision indicates that the same has been forwarded to the Secretary of the Interior for review, and inasmuch as we have by brief expressed our opinion why the said Polly A. Sarahas should not be admitted, we submit the same [redacted] consideration of the Department, still urging upon the attention of the Department our protest against the enrollment of any member of this family.

Respectfully submitted,

_____
Attorney for the Cherokee Nation.

5

Horace

5. [illegible]

married, [illegible] after she reached her majority, but she did return to the Nation a number of years ago where she has since resided with her family.

"To constitute abandonment there must be a concurrence of act and intent. Intent is an essential element."

[illegible] v. [illegible]alloy, 40 Cal. [illegible].

[illegible] v. [illegible]ite, 74 [illegible].

[illegible] v. [illegible], [illegible] Ill. [illegible].

[illegible] vs. [illegible], [illegible].

"A ~~[illegible]~~ unequivocal and decisive act of the party is necessary to constitute an abandonment of the right."

New York Indians vs. United States, 170 U.S.

"[illegible] an [illegible]."

II.

[illegible] Wyandotte - [illegible] Agency, [illegible] that [illegible] reserva-tion [illegible] Texas, [illegible]. These [illegible] returned [illegible] Nation, [illegible] of the Indian [illegible].

[illegible] to [illegible] citizen-ship, [illegible] difficult to determine. [illegible] that [illegible] in the Cherokee Nation. The Curtis Bill [illegible]:

"[illegible] shall be [illegible] tion, and [illegible]."

[illegible] of the Curtis Bill, each of these applicants had resided in the Cherokee Nation, and being Cherokee Indians should be allowed the benefit of this clause.

disproving

much the said

Mulholland & Smith

CD No 345

Polly Jackson

vs

Cherokee Nation

Copy for Case

Brief of applicant

Hendricks & Scott

attys for Applicants

Copy

Department of the Interior.

In the matter of the application of
Polly A. Sarahas for the enrollment
of herself and children as citizens
of Cherokee Nation, Indian Territory.

Motion to revise the decision of the Commission to Five Civilized Tribes in consolidated cases of Polly A. Sarahas Cherokee Doubtful #345 and Alberta Long and her daughter, Cherokee Doubtful #347.

The applicant moves to revise the decision of the Commission to Five Civilized Tribes as to the children and grand-children of Polly A. Sarahas and for reason states as follows:

First: The Commission erred in rejecting the children and grand-children of Polly A. Sarahas,. The status of the children is that of the mother and there is no law which forfeited the right in the Cherokee Nation which these children possessed from the time of their birth.

The action of an officer of the Indian Department in making the allotment years ago to minors does not as a matter of law forfeit their rights in the Cherokee Nation. Whether that allotment was lawful or otherwise cannot be determined in this proceeding.

Second: If enrollment is refused on record as made up the alternative relief of rehearing is prayed and in support thereof affidavits are attached hereto showing that applicants can prove that the allotments were made to minors without the knowledge or consent of their mother and that they were never taken into possession by allottees.

Therefore applicants pray

I. That they be given the status of their mother and enrolled as citizens of the Cherokee Nation as a matter of law on the record.

II. Or in the alternative that they be given new hearing and opportunity to prove that the allotments in the Wyandotte Nation were made without the knowledge or consent of the mother of said allottees.

Edgar Scott
Attorney for applicants.

Service of the above motion and copies of the affidavits thereto attached and of brief in support of said motion this_____ day of _____,1905 is acknowledged.

_____
Attorneys for Cherokee Nation

(COPY)

State of Missouri,)
County of Newton,) SS

On this 26th day of October A. D.1905, before me, a Notary Public within and for the State and County aforesaid, personally appeared, Polly A. Sarahas, who by me being duly sworn according to law, states upon her oath that she is a Cherokee Indian by blood and that she has an allotment in the Cherokee Reservation, Indian Territory, and that she has two children Alberta Sarahas and Frank Sarahas, who were given allotments in the Wyandotte Reservation.

This affiant further states that she notified Major Howard, the first alloting agant of the Wyandotte Reservation, that she desired that her children be not given land in the Wyandotte Reservation for the reason that she was a Cherokee Indian and as such entitled to an allotment in the Cherokee Reservation and that she desired her children to have allotments in the Cherokee Reservation as they lived in the Cherokee Reservation and were recognized as citizens of the Cherokee Reservation.

The affiant further states that during the second allotment in the Wyandotte Reservation, while she and her children were residing in the Cherokee Reservation, that allotments were given her children in the Wyandotte Reservation without her knowledge or consent and as this affiant has already filed on lands in the Cherokee Reservation and lands are improved on said allotments and the same are being contested for the reason that the records show the said children have allotments in the Wyandotte Reservation,Indian Territor

This affiant now desires that said allotments so selected in the Wyandotte Reservation for her said children be given the Wyandotte tribe for the reason that said children nor any one ø for them have derived any benefit from said allotments. This affiant states that her children are willing to sign any papers necessary for the relinquishment of said allotments in the Wyandotte Reservation.

Affiant further states that her children have not resided in the Wyandotte Reservation for about sixteen years and that said allotments are of so little value that said children could not possibly make a living on said allotments as the same are very poor land.

Witnesses to mark. (Signed) Polly A. her mark Sarahas,

Caràline Lofland,
Cora Haymon.

Subscribed and sworn to before me this 26th day of October, A. D 1905.

Albert D. Bennett.
Notary Public Newton Co.Mo.

My commission expires
Feb.7, 1908.

(COPY)

State of Missouri,)
County of Newton.) SS

On this 26th day of October, A.D. 1905, before me, a Notary Public within and for the County and State aforesaid, personally appeared, Caroline Lofland, Mollie Bolin, and Lewis Bolin, who by me being duly sworn according to law, deposeth and saith that they are acquainted with Polly A. Sarahas and that the said Polly A. Sarahas told all these affiants that she, Polly A. Sarahas had informed Major Howard, who is now deceased, that she did not want allotments for her children in the Wyandotte Reservation, Indian Territory, as her children, Alberta Sarahas and Frank Sarahas lived in the Cherokee Reservation and were recognized as citizens of said Cherokee Reservation.

Caroline Lofland, one of the above named affiants, who is a Wyandotte by blood states that the said Polly A. Sarahas lived with her in her girlhood days but that the said Polly A. Sarahas was never adopted as a Wyandotte and that the said Polly A. Sarahas, after her marriage and after the birth of her children moved to the Cherokee Reservation for the purpose of giving her children better opportunities than they could have acquired in the Wyandotte Reservation for the reason that the best land had been alloted in the Wyandotte Reservation.

It is the impression or idea of these affiants that said children were not given allotments during the first allotment in the Wyandotte Reservation but is our impression from the best information we have that the allotments were made for said children during the second allotment in the Wyandotte Reservation which was made about two years after the first allotments was made. These affiants further state that the allotments made the said children are of but little value for any purpose.

Affiants further saith not.

(Signed) Caroline Lofland.

Witnesses to mark.
Jess Mayfield,
Bessie Bolin.

Mabil Bolin.
his
Lewis Bolin.
Mark.

Subscribed and sworn to before me this 26th day of October, A. D. 1905.

(SEAL)

Albert D. Bennett.
Notary Public, Newton Co. Mo

My commission expires
Feby. 7, 1908.

Department of the Interior.

In the matter of the application of
Polly A. Sarahas, for the enrollment
of herself et al as citizens by blood
of the Cherokee Nation.

Brief in support of motion to review decision.

The decision of the Commission recognizing that Polly A. Sarahas is a citizen by blood of the Cherokee Nation, is correct. The judgement of the Commission that her children are not entitled to be enrolled is erroneous. Polly A. Sarahas is the daughter of William and Rachel Hurt, nee Forrester. The mother Rachel Forrester was a recognized citizen of the Cherokee Nation, Indian Territory, before the civil war, who died about 1862 or 1863. The applicant Rally A. Sarahas, was after the death of her mother, removed by her step-father when but a child, to the Wyandotte Nation. Here she grew to womanhood and married Richard Sarahas, a Wyandotte Indian. In 1880 she returned to the Cherokee Nation with her family where she has lived continously with them ever since. She has sought by every affirmative act of which she is capable to hold her identity and the identity of her children with the Cherokee Tribe of Indians. Forced out of the Cherokee Nation which was her home, by the stress of circumstances caused by the death of her mother when she was a child, she returned to the home of her ancestors and the home of her childhood, bringing her children with her, as soon as conditions would permit, and here she has continued to reside for the last fifteen years. These facts are established by most reputable witnesses. The Commission had rightly said that she is entitled to be enrolled as a citizen of the Cherokee Nation by blood. At this point however the Commission departs from the rule which should control this case. It having been established that the mother is a citizen by blood of the Cherokee Nation, there is no escape from the conclusion that her children are alo entitled to be enrolled . The mother is a Cherokee indian by blood and a recognized citizen of the Cherokee Nation. The Commission did not make her a citizen. She has been a citizen by blood of the Cherokee Nation from the moment of her birth.

Then why are not her children entitled to be enrolled as citizens of the Cherokee Nation. Analyse this proposition and determine if you can by the terms of what law these children have lost rights which were theirs when they were born. The burden is on the Cherokee Nation to place its finger on the law which would oust them. It is said that they took an allotment in the Wyandotte Nation. This is a statement of fact. There is no law about it. If they did it does not follow that they could not be enrolled as citizens of the Cherokee Nation. It is jumping to conclusions to say broadly they took an allotment in the Wyandotte Nation and that bars them from enrollment in the Cherokee Nation, for that is the very question to be analyzed and determined. Does it? If so why? If they have lost a right which, as children of their mother, they had when they were born such forfeiture should be based on a very clear law. No citation of authority is necessary to remind any lawyer that forfeitures are abhorred in law. By the exact terms of just <u>what law</u> are these children to be deprived of citizenship in the Cherokee Nation. When was the act passed and to whom does it apply. Unless these questions can be satisfactorially answered there is no foundation for Commission's decision that these children are to be ousted. It will certainly take something more than the action of Indian Agent in selecting an allotment of land for a minor. Nor does it suffice to say that it the rule established by the Department in Nancy Sky et al (I.T.4991-1902). In first place is this case within the rule announced in Sky decision? I am not conversant with that decision but doubt if it applies to a case where the parties against whom a forfeiture is invoked were minors at the time an allotment was set aside to them by the Indian Agent. Following the announcement of the doctrine of forfeiture as announced by the Supreme Court of the United States in the case of the New York Indians it would have been impossible for these children to have forfeited their rights to citizenship in the Cherokee Nation by taking an allotment in the Wyandotte Nation. There must be an <u>intent to forego</u>. New York Indians V. United States 170 U.S. Law et al Book 42 p 927.

A reading of this case will show how entirely erroneous is the decision of the Commission holding that these minors " forfeited the rights of citizenship in the Cherokee Nation where they were recognized as citizens of, and took allotments of land in the Wyandotte Nation". I mean that the decision of the Supreme Court Court shows what is a forfeiture generally speaking, not that the facts of New York Indian case are similar to facts in this case. The Commission announces a doctrine of law as applied to forfeitures which certainly appears fundamentally wrong, to hold that there could be a forfeiture in the case of these children. The decision of the Commission shows that it recognized the rights of these children but holds in express terms that they forfeited them. Therefore the case stands squarely on the doctrine of law relating to forfeitures. It is believed that the Commission has misunderstood a previous holding of the Department in the Sky case or that it is not applicable to the facts in this case. It is not beleived that any decision of this Department could be so at variance with decisions of Supreme Court as to hold that the rights of minors once vested, may be forfeited by the act of an Indian Agent in alloting land to such infant. If there is such decision it is suggested that the highest Court of the land overrule their own decisions. It would seem that the applicants might well rest their case here but out of abundance of caution they pray in the alternative and relative to the facts concerning those allotments of land in Wyandotte Nation as the record is not very full on that subject. This with view to prayer for new hearing as to children if Department does not enrol them as the record now stands.

The affidavits accompanying the motion show as follows:

The father of these children, Polly A. Sarahas, declined allotment of land in Wyandotte Nation to her children, for the reason that she wanted her children to take allotments in the Cherokee Nation. In accordance with her wishes no allotments were made to these children during the first allotment of lands in said Wyandotte Nation. Two years afterwards at a second allotment lands were allotted to these children without the knowledge or consent of the mother. These allotments were never received and the children have never received a dollar from them but have been living on their farm in the Cherokee Nation. These allotments are of no prac-

tical value. On the other hand commencing sixteen years ago the mother made valuable farms in the Cherokee Nation for these children which they have filed on, but which some worthy citizen of the Cherokee Nation is trying to take from them on the ground that they cannot take allotments in the Cherokee Nation since allotments were awarded them in the Wyandotte Nation. It is called to the attention of the Department that the Act of June 28, 1898, commonly called the Curtis bill provided in terms that the claimant should be entitled to elect in which tribe he would take his allotment, and if he made no election Commission should allot him in tribe in which he resides. This contemplated the case in which he had citizenship in two tribes and was to thereafter elect between the two, but there is nothing which was intended to bar the right of the applicant to have his rights in the tribe to which he belongs because he had previously, years before, been given an insignificant allotment some where else. It is submitted that there is nothing in the scheme of allotment as provided by the Cherokee treaty of Aug. 7th, 1902, which can be construed to ~~vest~~ oust the citizenship of Cherokee simply because he had years before that treaty had land allotted to him in some collatteral little reservation. The provision is affirmative and was intended to waive every thing prior to the Act. The right in the Cherokee Nation is the birthright of each of these children and there is no law by which to forfeit it. The language of the United States V. Hadley, 99 Fed. is applicable. "Whether the allotment was lawful or otherwise is a question which cannot be determined in this proceeding and I consider it immaterial because the action of the officer in the Indian Department in making the allotment to him could not have the effect to deprive him of his birthright." Suppose that Richard Sarahas the father of these children had been a white man instead of a Wyandotte indian, the status of the children would have followed that of the mother and they would be none the less Cherokees because of having acquired some property from their fathers house. The status here follows the Cherokee mother just the same.

This case is entirely different from from case of adult who after general scheme of allotment has been provided, elects in which tribe he will take his rights.

It is respectfully submitted that applicants should all be enrolled as the matter now stands.

Respectfully,

Edgar Smith

Attorney for applicants.

Since writing the foregoing I have seen the decision in Nancy Sky, et.al. Obviously this decision is not a precedent for rejecting the application of the children of Polly Sarahas. In the Sky case neither of the applicants was identified on any roll of Cherokees. The mother was held to have elected to forfeit her citizenship in the Cherokee Nation by taking her allotment in Peoria Country. Her child was born, and continued to live in Peoria Country. The applicants here are found on a roll of Cherokee Citizens. The mother is held to be a citizen of the Cherokee Nation, and the children are held to have made their election while minors. This they could not do.

Moreover the record does not show any ~~applicative~~ affirmative act on their part at all, but only that the Agent gave them an allotment.

The destinction is apparent. In the Sky case the mother was held to have forfeited her citizenship and child born afterward in the Peoria Nation was held to have no rights which its mother did not have, having been born after the mother had lost

Since writing the foregoing I have seen the decision in Nancy Sky, et.al. Obviously this decision is not a precedent for rejecting the application of the children of Polly Sarahas. In the Sky case neither of the applicants was identified on any roll of Cherokees. The mother was held to have elected to forfeit her citizenship in the Cherokee Nation by taking her allotment in Peoria Country. Her child was born, and continued to live in Peoria Country. The applicants here are found on a roll of Cherokee Citizens. The mother is held to be a citizen of the Cherokee Nation, and the children are held to have made their election while minors. This they could not do.

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The destinction is apparent. In the Sky case the mother was held to have forfeited her citizenship and child born afterward in the Peoria Nation was held to have no rights which its mother did not have, having been born after the mother had lost her citizenship in the Cherokee Nation.

In this case the mother retained her citizenship and the minor children cannot be deprived of their right because the Agent alloted land to them. But it would seem unnecessary to argue the matter because a careful reading of the two cases shows clearly that the Commissioner is in error in holding that this case is within the rule announced in the Sky case.

The only point in this case which the Sky case settles is decided in favor of these applicants, which is that the applicants must have the right of election, which these minors could not and did not exercise.

C D 345

No. .....

In the matter of application of Polly A Scraper et al to be enrolled as citizens of Cherokee Nation

Plaintiff,

~~Defendant.~~

Copy of Motion to reverse decision of Commission to Five Tribes, and affidavits and brief in support of Motion

Filed this ..... day of .....

EDGAR SMITH,

VINITA, I. T.

Attorney for applicants.

BURMAP STA. & PTG. CO.-K. C. 92784

Department of the Interior,

INDIAN SCHOOL SERVICE,

Seneca Indian Training School,

Wyandotte, I. T. Feby. 18, 1902.

J. C. Starr,

Muscogee, I. T.

Sir:

In reply to yours of recent date , I enclose herewith duplicate certificates of the allottments of the children of Polly A. Sarahas, in this Agency. Mrs. Sarahas herself took no allottment here, but her children, being entitled through their father, received their several allottments with the Wyandottes.

Very respectfully,

Horace B. Stevens

Superintendent and Acting

U.S. Indian Agent.

SUBPOENA.

INDIAN TERRITORY,
Cherokee Nation.

TO THE MARSHAL FOR THE CHEROKEE NATION:

You are Commanded in the Name of the Cherokee Nation, by authority of an act of the National Council of the Cherokee Nation, approved by the President Dec. 28th, 1900, entitled: "An Act providing for the representation of the Cherokee Nation before the United States Commission in making a roll of the colored citizens of the Cherokee Nation," to summons.....

.....,

to be and appear before the United States Commission at.....I. T.,

in.....District on the.....day of

.....1901, then and there to give evidence in such contested citizenship cases as the Attorneys for the Cherokee Nation may desire.

Given from under.....hand.....this the.....day of.....1901.

W. W. Hastings

.....

.....

Attorneys for the Cherokee Nation.

MARSHAL'S RETURN.

INDIAN TERRITORY,
Cherokee Nation. } SS.

I HEREBY CERTIFY That I received the within summons on the 22nd day of February 1902, and that I served the same by copy, as follows:

Personally on W. S. Gardner at home this 22 day of Feb 1902

Personally on [illegible] Cobb at home this 22 day of Feb 1902

Personally on at this day of 1901

At residence of at this day of 1901

At residence of at this day of 1901

At residence of at this day of 1901

With a member of witness's family over fifteen years of age there residing.

Sam D. Ames
Marshal for the Cherokee Nation

Fees $1.75

F. M. CONNER. O. L. CONNER.

Fairland, I. T., 189

M.

BUCK'S STOVES & RANGES "THE PEACE MAKERS"

BOUGHT OF F. M. CONNER & SON,

DEALERS IN

Hardware, Furniture, Stoves, Tinware.

.....Harness and Saddlery.....

VEHICLES AND FARMING IMPLEMENTS.

Mr. C. Lurr

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April 5, 1[illegible].

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[illegible],

[illegible], T. [illegible].

[illegible]:

[illegible] of the [illegible] in [illegible], [illegible] A. [illegible].

[illegible] and obliged,

[illegible],

DEPARTMENT OF THE INTERIOR,

UNITED STATES INDIAN SERVICE.

Seneca Indian Training School,
Quapaw Agency, Wyandotte, I. T.
September 21, 1903.

W. W. Hasting,

Attorney for Cherokee Nation,

Talequah, Indian Territory.

Dear Sir:

In reply to yours of the 9th inst. I have the honor to state: The lands in the Wyandot Reservation, Quapaw Agency, I.T. were allotted in 1891, by Special U.S.Allotting Agent, Spencer Hartwig, under Act of Congress of February 8, 1887-known as the Dawes Bill. At the time when allottments to the Wyandot Indians were made, the family of Richard Sarahas consisted as follows:

Richard Sarahas-Head of family-
Polly Sarahas--wife
Elmer Sarahas--son
Alberta Sarahas--daughter
Frank Sarahas--son

Land was allotted to Richard Sarahas- 160 acres, as head of the family; Elmer, his son, was allotted 40 acres; Alberta, his daughter, was allotted 40 acres; and Frank, his son, was allotted two fractions containing nearly forty acres; all of his children being at the time under 18 years of age. There is no record as to under what instructions or regulations the allottment was madeor what governed the action of the Allotting Agent at the time, but evidently he worked under Act of Feby. 8, 1887 , herein referred to. From this it can be seen although the Patent may read to "an Indian Richard Sarahas"- yet as his wife is not named therein

whether or not she was included is questionable, since the other tribes of this agency have allotted lands to husbands/ and wife separately. The Wyandots are the only tribe that followed the distribution as named in the Act of Feby. 8, 1887.

Thr records in the office here, show that when the Wyandot Indians were paid money due them by the Government in 1882, the Roll prepared at the time, was based upon the following action of the Wyandots, in general at Quapaw Agency, I.T. November 29, 1881:

" We, the Wyandot tribe of Indians now living in the Indian Territory, in general Council assembled, in the manner customary with us in transacting all business of importance pertaining to our tribe, give our free consent and hereby agree, that all the persons whose names appear on the foregoing Roll, and numbered from 1 to 282, and those only, shall be considered members of, and constitute the Wyandot tribe of Indians, and that they or their heirs or legal representatives, shall share in the sum of Twenty-eight thousand one hundred and nine and 51/100($28109.51) appropriated for our benefit on 3d of March last, and we authorize our Chief and Councillors and head men to make this agreement in our behalf."

The names of the Chiefs and others are on the original in the Department and a copy here. Among those signing to the above, can be seen signature of "Richard Sarahas", and on Receipt Rolls of the tribe, of March and April, 1882, appears names as follows:

174-Richard Sarahas--m--24
175-Polly Sarahas-wife--f--22
176-Elmer Sarahas-son---5
177-Alberta Sarahas-Dau.-f- 3

The above shares were paid to and so receipted for, by Richard Sarahas, as head of the family.

Frank Sarahas, son, who received an allottment, was born since 1882 but prior to the Act of Feby. 1887.

From what I have been able to learn, at the time the lands were allotted in 1891, by Agent Hartwig, Polly Sarahas was considered as a member of the Wyandot tribe. Thereis, however, nothing in the Agency recordsto show under what instructions the allottment was made. Mr. Hartwig, as a Special Allotting Agent, received his

insrtuctions, did his work and reported direct to the Department. When the allottment was approved a plat book was sent to the office and the patents were forwarded to be given to the allottees. The patent of Richard Sarahas is number 57-Elmer's No. 58-Alberta's No. 59, and Frank's No. 60. Allottments were made in 1891, and approved by Dept. January 14, 1892.

Very respectfully,

Supt. & Acting U.S.
Indian Agent.

Cherokee D-345.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
WM. O. BEALL,
Secretary.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 9, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of supplemental proceedings had at Muskogee, Indian Territory, on October 18, 1904, in the matter of the application for the enrollment of Polly A. Sarahas, et al., as citizens by blood of the Cherokee Nation.

Respectfully,

Chairman.

Incl. S-74.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-345,
et al.

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

Muskogee, Indian Territory, September 29, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, granting the application for the enrollment of Polly A. Sarahas, and rejecting the applications for the enrollment of Frank Sarahas, Alberta, Elmer L. and William Lucien Long, as citizens by blood of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Commissioner.

LS
Incl. S-70

(C O P Y)

Land.

75756-1905. DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, October 12, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated September 29, 1905, transmitting the record of the consolidated applications for enrollment as citizens by blood of the Cherokee Nation by Polly A. Sarahas for herself and her minor child, Frank Sarahas, and by Alberta Long (born Sarahas) for herself and her minor children, Elmer L. and William Lucien Long.

September 29, 1905, the Commissioner decided favorably to Polly A. Sarahas and adversely to all the other applicants.

The record shows that Polly A. Sarahas, born Hunt, was born in the Cherokee Nation about 1861; that her mother, Rachel Hunt, born Forrester, who died about 1862 or 3 is identified with and recognized as a Cherokee citizen; that Polly A. Sarahas resided in the Cherokee nation from the date of her birth until 1872, when she was taken by her step-mother to the Wyandotte Nation where she grew to womanhood and married Richard Sarahas, a Wyandotte Indian. As issue of this marriage,

Alberta and Frank Sarahas were born. On May 7, 1899, Alberta was married to William P. Long, a Wyandotte Indian, and as issue of this marriage, Elmer L. and William Lucien Long were born. It is further shown that Polly A. Sarrahas resided in the Wyandotte Nation from about 1873 to 1890 when she and her husband with their minor children, Frank and Alberta , returned to the Cherokee Nation and have made their home there continuously since. The applicants, Polly A. and Frank Sarahas and Alberta Long are identified on the 1896 Cherokee Census Roll

The record further shows that Frank Sarahas and Alberta Long are recognized citizens of the Wyandotte Nation and as such have received allotments of land therein, prior to the birth of the children of Alberta Long.

In view of the record and of the decision in the case of Nancy Sky et al. (I.T.D. 4991-1902) May 9, 1903, the approval of the Commissioner's decision adverse to Alberta, Elmer L. and William Lucien Long and Frank Sarahas and favorably to Polly A. Sarahas is recommended.

Very respectfully,

G. F. Larrabee

Acting Commissioner

M. M. M. (W)

D. d. 80418 K. P.
THB

I.T.D. 13474-1905
13848- "

DEPARTMENT OF THE INTERIOR,

L R S. WASHINGTON.

November 2, 1905.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

September 29, 1905, you transmitted the record in the consolidated case of Polly A. Sarahas, et al., involving the applications of Polly A. and Frank Sarahas, and Alberta, Elmer L., and William Lucien Long, for enrollment as citizens by blood of the Cherokee Nation, including your decision of the same date, which was favorable to Polly A. Sarahas and adverse to all the other applicants.

Reporting October 12, 1905, the Indian Office recommends that your decision be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and said decision is hereby affirmed.

Consideration has been given to a protest of the Cherokee Nation against your decision.

Respectfully

(Signed) THOS RYAN
First Assistant Secretary.

1 inclosure.

Refer in reply to the following:
Cherokee D-345-347

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

Muskogee, Indian Territory, November 10, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, granting the application for the enrollment of Polly A. Sarahas, and rejecting the applications for the enrollment of Frank Sarahas and Alberta, Elmer L. and William Lucien Long, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on November 2, 1905.

For your information, there is inclosed herewith a copy of Departmental decision above referred to.

Respectfully,

Commissioner.

Incl. S-113

D. C. 8770-1907.

I.T.D.2394-1907.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.

S.P.

L.R.S.

DIRECT.

February 11, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with your recommendation in letter of January 24, 1907, and in Indian Officer letter of the fourth instant, submitting your report, the enrollment of Frank Sarahas, Alberta Long, Elmer L. Long, and William Lucien Long, as citizens by blood of the Cherokee Nation, is approved. The partial roll containing their names, submitted with your letter, has also been approved. Two copies thereof are inclosed.

The relinquishment of the patents to Alberta Long Sarahas, now Long, and Frank Sarahas to lands in the Wyandotte Reservation, Ind. T., are accepted and the patents Nos. 59 and 60 have been canceled and sent to the General Land Office.

The other papers have been returned to the Indian Office, including one copy of the partial roll. One copy has been retained for the files of the Department.

Respectfully,

Thos Ryan

First Assistant Secretary.

2 inclosures.
Carbon copy and 7 inc. to Ind. Of.
A.F.Mc 2-14-07

REFER IN REPLY TO THE FOLLOWING:
Cherokee
10988 et al.

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

Muskogee, Indian Territory, April 15, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the application for the enrollment of Alberta Long, et al., as citizens of the Cherokee Nation, was granted by the Secretary of the Interior, February 11, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-5
LMC

345

IN THE MATTER OF THE APPLICATION OF

Polly A. Sarah et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

See allotment [illegible]
[illegible]
[illegible]
[illegible]

No. 345

IN THE MATTER OF THE APPLICATION OF

Polly A. Sorahan et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1. Original testimony - September 19, 1900
2. Memo of application - " 19, 1900
3. Receipt of attorney for copy of testimony
4. Supplementary testimony 5/28/190
5. Notice of final consideration
6. Proof of service of notice 2/25/02

7. Certificate of Indian Department
8. Supplemental testimony and order
9. Brief for applicant

Cher D 346

Supl to D 466

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I. T., September 19th, 1900.

In the matter of the application of Nellie Highland for the enrollment of herself and children as Cherokee citizens:

The said Nellie Highland being sworn and examined by Commissioner T. B.Needles, testified as follows:

Question: What is your name ? A Nellie Highland.
Q What is your age ? A Fifty nine years of age.
Q What is your post office address ? A Vinita.
Q What district do you live in ? A Coweesecowee.
Q You are a recognized citizen of the Cherokee Nation ?
A I was born and raised here. I don't know nothing else.
Q Did you ever live anywhere else ? A No sir.
Q What degree of blood do you claim ? A Half-breed.
Q For whom do you apply for enrollment ?
A For myself and my children.
Q Is your husband living ? A No sir.
Q What was his name ? A Highland; Mike Highland.
Q What was your father's name ? A Smith.
Q His first name ? A McCoy Smith.
Q Is he living ? a No sir, he is dead.
Q Your mother's name ? A Sarah.
Q Is she living ? A No sir, she is dead.
Q Give me the names of your children ?
A Sarah Highland, twenty years of age. William Highland, nineteen.
Q When did you say you were married to Highland ?
A I don't know; it has been a good long while.
Q Where were you married ? A Married at Fort Gibson.
Q What district were you in twenty years ago ?
A I have been living in Vinita a good long while.
Q Did you ever go by any other name except Highland ?
A No sir, not since I have been married.
Q What was your name before you were married ? A Nellie Smith.
Q Did your father die before 1880 ? A I could not recollect when my father died; I was a small child.
Q What was your mother's name ? A Sarah Woodard.
Q Well, they didn't get your name on the 1880 roll, do you know why it wasn't on the 1880 roll ? A Yes sir, I was in the Choctaw Nation at that time.
Q Why didn't you say so then and save a lot of trouble ?
A Well, you didn't ask me.

1896 roll, page 179, No. 2311, Nellie Highland, Coweescoowee District;

1896 roll, page 179, No. 2315, Sarah Highland, Coweescoowee District;

1896 roll, page 179, No. 2316, William Highland, Coweescoowee District;

How long did you live in the Choctaw Nation ?
A Why we stayed there about five years.

The Commissioner: The name of Nellie Highland appears upon the Census Roll of 1896. On the roll of 1880 her name is not found, and she avers that the reason her name is not on said roll is that she was living in the Choctaw Nation at the time. The children Sarah and William's names appear upon the Census Roll of 1896. She not having made satisfactory proof of her citizenship, and her name not appearing upon the roll of 1880, final judgment as to the said applicant and her children Sarah and William will be suspended and her and their names will be placed upon a doubtful card.

The undersigned being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in the above mentioned application for enrollment and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

(Signed) Wm. S. Wellshear.

Subscribed and sworn to before me this 29th day of September, A. D. 1900.

(Signed) C. R. Breckinridge,

Commissioner.

I, E. C. Bagwell, on my official oath as stenographer to the Commission to the Five Civilized Tribes, state that the above and foregoing is a true, perfect and complete transcript of the original testimony and proceedings had before the Commission, as appears from the originals on file with the Commission.

E C Bagwell

Stenographer.

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Cherokee D 346

(Supl to D 466)

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I. T., October 15, 1901.

In the matter of the application of Nellie Highland, et al, for enrollment as Cherokee citizens:

Supplemental testimony on behalf of applicants.

Appearances:
Applicant in person;
J. L. Baugh, Cherokee representative.

McCOY SMITH, being duly sworn and examined by Commissioner Needles, testified as follows:
Q What is your name ? A McCoy Smith.
Q What is your age ? A ~~XX~~ 54.
Q What district do you live in ? A Canadian district.
Q Are you a Cherokee citizen by blood ? A Yes sir.
Q Do you know the applicant Nellie Highland ? A Yes sir, I know her.
Q How long have you known her ? A Known her all my life; we were raised right close together.
Q Well, when did you first know Nellie Highland ? A When we were children about three or four years old; I knew her mother.
Q Well, what was her mother's name ? A Sallie.
Q She living ? A No sir, she is dead.
Q What was her father's name ? A McCoy Smith.
Q Is he living ? A No sir, he is dead.
Q Is her father a Cherokee by blood ? A Yes sir.
Q Her mother ? A Yes sir.
Q Did they die before the year 1880 ? A Yes sir.
Q Do you know why Nellie Highland's name is not on the roll of 1880
A She was in the Choctaw Nation at that time when the 1880 roll was taken.
Mr. Baugh: How long was she down there Mr. Smith ?
A Why she married Highland there at Muskogee along about '78 I think it was, somewhere along about that time, '76 or '78, and I thought stayed there two or three years, and then went from there to the Choctaw Nation; I lived right there close to them.
Q Do you know when she returned ? A No I don't know when she came back.
Q Did they have any property in the Cherokee Nation when they left here ? A No sir, I think not.
Q Well, when they were married, were they living in Muskogee, or where were they living ? A She was living down on Canadian.
Q Did they go to housekeeping in Muskogee ? A Yes sir, he was working there on the railroad.
Q Do you know what occupation he followed after they went to the Choctaw Nation ? A Mining, coal mining.
Commissioner: You know how long she lived in the Choctaw Nation ?
A No sir, I don't know that.
Mr. Baugh: Is there any statement you want to make ?
A No, I don't know that it is necessary, I have knowed her ever since I can recellect, I knew her mother and father both.

Commissioner: This will be made part of the record in the case.

FRANK SMITH, being duly sworn and examined by Commissioner Needles, testified as follows:
Q What is your name ? A Frank Smith.
Q How old are you ? A 56.
Q What is your post office address ? A Braggs.

Q Do you know Nellie Highland ? A Yes sir.
Q Any relation to you ? A Yes sir.
Q What ? A First or second cousins, brothers children.
Q She is your brother's child ? A My uncle's child.
Q What is her father's name ? A McCoy Smith.
Q Was he a Cherokee citizen ? A Yes sir.
Q Did he die before 1880 ? A Yes sir.
Q What was her mother's name ? A Sallie.
Q Was she a Cherokee citizen ? A Yes sir.
Q Both by blood ? A Yes sir.
Q Did she die before 1880 ? A Yes sir.
Q Well, where has Nellie Highland been living all her life ?
A Well she lived there on Coody's Creek until she married.
Q Where was she born ? A Born there on the bayou in Illinois district.
Q Do you know why her name is not on the roll of 1880 ?
A No sir, I don't.

Bruce C. Jones, being duly sworn says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Bruce C. Jones.

Sworn to and subscribed before me this the 18th of October, 1901.

(Signed) T. B. Needles,

Commissioner.

(Supl to D 466)

Supl. C D 346

Department of the Interior,
Commission to the Five Civilized Tribes.
Tahlequah, I. T., November 7th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of NELLIE HIGHLAND, ET AL., as Cherokee citizens, introduced on behalf of applicants:

Appearances:
Attorney J. S. Davenport, for applicant;
Mr. J. C. Starr, for Cherokee Nation.

M. M. LaHAY, being duly sworn by Commissioner Needles, testified as follows on the part of the applicants:

MR. DAVENPORT: What is your name ? A J. M. LaHay.
Q Where do you live Mr. LaHay ? A Claremore, Cherokee Nation.
Q How old are you ? A 36 years old.
Q How long have you lived in the Cherokee Nation ?
A All my life, except being absent a while--12 years.
Q Where were you living in 1880 Mr. LaHay ?
A I was living at McAlester, in the Choctaw Nation.
Q Did you know Mike Highland during his lifetime ? A Yes sir.
Q Did you know his wife, Nellie ? A Yes sir.
Q Do you know where they were living in 1880 ?
A They were living about McAlester.
Q Were you acquainted with them at that time ? A Yes sir.
Q Did you and Mike Highland work together and live near each other in 1880 ? A Yes, we worked at the same works and lived neighbors to each other at the time.
Q That was in the Choctaw Nation ? A Yes sir.

Com'r Needles: This testimony will be made part of the record in the original case, and filed therewith.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this November 9th, 1901.

(Signed) T. B. Needles,

Commissioner.

*Re

D 346

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 25, 1902.

In the matter of the application of Nellie Highland, for the enrollment of herself and children as citizens of the Cherokee Nation:

Appearances:
James S. Davenport, Vinita, I. T., for applicants;
W W Hastings, for the Cherokee Nation.

The Commission: Is there any statement you desire to make relative to this case Mr. Davenport ?

Mr. Davenport: I want to call the attention of the Commission to the testimony of Joe M. Lahay as to where the husband and wife were living in 1880, showing that they were living in Krebs, Choctaw Nation, in order to account for their absence and their not being on the 1880 roll.

Do you submit the case to the Commission for final consideration ? A Yes sir.

The attorney for the applicant and the representative of the Cherokee Nation submit this case to the Commission for final consideration, and the same is closed, and is reported to the Commission for final decision based upon the evidence now on file.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

Cherokee D 446

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

H.V.L.

In the matter of the application of James M. Smith for the enrollment of his wife, Sarah E. Smith, and five minor children, Olive, Cora L., Maud, Eliza, and Jimmie Smith, as citizens by blood of the Cherokee Nation, and for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 26, 1900, the applicant, James M. Smith, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of his wife, Sarah E. Smith, and four minor children, Olive, Cora L., Maud, and Eliza Smith, as citizens by blood of the Cherokee Nation, and for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation. Subsequently, on March 23, 1901, another child, Jimmie Smith, was born to the applicant, James M. Smith, and his wife, Sarah E. Smith, and proper proof of his birth has been furnished the Commission. On February 27, 1902, at Muskogee, Indian Territory, further evidence in the matter of this application was submitted to the Commission.

It appears from the evidence in this case that the applicant, James M. Smith, a white man, was married on July 2, 1881, according to the laws of the Cherokee Nation, to Sarah Elizabeth Ralston, whose father, Lewis Ralston, was admitted to all the rights and privileges of Cherokee citizenship by blood, in September 1880, by the Commission on Citizenship of the Cherokee Nation. At the time of that admission the applicant, Sarah E. Smith, nee Ralston, was a minor.

It further appears from the evidence in this case that the

applicant, James M. Smith, and his wife, Sarah E. Smith, have lived together in the Cherokee Nation ever since their marriage under Cherokee law in 1881.

The applicant, James M. Smith, his wife, Sarah E. Smith, as "Sarah Eliza Smith", and their children, Olive, as "Ollie May Smith", Cora, as "Cora Lee Smith", Maud, and Eliza Smith, are all identified on the Cherokee census roll of 1896.

The authority of the Commission herein is defined in Paragraph 1, of Section 21, of the Act of Congress, June 28, 1898. (30 Stats., 495.)

It is therefore the opinion of this Commission that Sarah E. Smith, Olive Smith, Cora L. Smith, Maud Smith, Eliza Smith and Jimmie Smith are lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory, and that James M. Smith is lawfully entitled to be enrolled as a member by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for their enrollment as such should be granted and it is therefore so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this JUN 9 - 1902

21. D 346

Cherokee D 346

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

In the matter of the application for the enrollment of Nellie Highland, Sarah Highland and William Highland as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 19, 1900, Nellie Highland appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and her minor children Sarah and William Highland, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 15, 1901, and again at Tahlequah, Indian Territory, on November 7, 1901.

The evidence shows that Nellie Highland, nee Smith, at the time of this application was 59 years of age, and was born in the Cherokee Nation. She is not identified on the Cherokee Tribal Roll of 1880, and gives as a reason therefor that she was living in the Choctaw Nation, where her husband was engaged in earning a livelihood. The children hereinbefore named are the result of her marriage to Mike Highland. With the exception of her temporary residence in the Choctaw Nation, she has resided continuously in the Cherokee Nation. She is identified on the Cherokee Census Roll of 1896, as are also her children Sarah and William Highland, as native Cherokees.

It is, therefore, the opinion of this Commission that Nellie Highland, Sarah Highland and William Highland should be enrolled as citizens by blood of the Cherokee Nation in accordance with the provisions of Section twenty one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this SEP 0 [illegible]

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.
ALFRESON L. AYLESWORTH
SECRETARY.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cher. D-446.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of James M. Smith for the enrollment of his wife, Sarah E. Smith, and five minor children, Olive, Cora L., Maud, Eliza and Jimmie Smith, as citizens by blood of the Cherokee Nation, and for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the persons above named as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-446.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON T. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cherokee D 346.

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, September 24, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of Nellie Highland for the enrollment of herself and her two minor children, Sarah and William Highland, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file a protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 21.

IN THE MATTER OF THE APPLICATION OF

Nellie Hrafland et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony - September 19, 1900
B. Memo of application - " 19, 1900
C. Supplemental testimony [illegible]
D. Supplementary testimony Nov 1901
E. Notice of final consideration
F. Order [illegible] testimony 2/25/02

See Cherokee Jacket [illegible]6

Cher D 347

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 19th, 1900.

IN THE MATTER OF THE APPLICATION OF Alberta Long and child for enrollment as citizens of the Cherokee Nation, and she being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Alberta Long.
Q What is your age? A Twenty two.
Q What is your Postoffice? A Fairland.
Q What district do you live in? A Delaware.
Q For whom do you apply for enrollment; yourself?
A Myself and child.
Q One child? A Yes sir.
Q Do you apply for yourself as a Cherokee by blood? A Yes sir.
Q How long have you lived in the Cherokee nation? A Ten years.
Q Where did you live before ~~that~~ you lived in the Cherokee Nation? A In the Wyandotte Nation.
Q You lived there all your life down to ten years ago, did you?
A Yes sir.
Q What proportion of Cherokee blood do you claim? A I do not know what I would be.
Q Are you married at this time? A Yes sir.
Q What is the name of your husband? A William P. Long.
Q White man or Cherokee? A Wyandotte Indian.
Q When were you married to him? A Last year.
Q Have you a certificate of your marriage? A Yes sir.
The applicant presents a duly authenticated United States marriage license and certificate, showing that the marriage, as stated by her, took place on the 7th of May, 1899; Reverend Benjamin F. Tuinehart, officiating. The license is issued by the Clerk of the United States Court, Northern District of the Indian Territory, and these papers are filed herewith.
Q Your mother moved to the Wyandotte Nation, directly after her marriage, did she? A She was taken there by her step mother when she was a child.
Q And she married there? A Yes sir.
Q Did she marry there in 1876? A Yes sir.
Q And you were born there? A Yes sir.
Q And you lived there all your life up to ten years ago?
A Yes sir.
Q Then you came here with your mother and father, did you?
A Yes sir.
Q And you have lived here ever since? A Yes sir.
Q Have you ever been admitted to citizenship? A Yes sir; when she was.
Q Have you a certificate of admission? A No sir.
Q How why one got it, so far as you know? Did you ever see the certificate admitting you, by the Cherokee Commission? A No sir; they never gave her any certificate: They knew her all her life.
Q You say they just claimed she had never lost her citizenship; is that it? A I suppose so.
Q Give me the name of your child, please? A Elmer Lee Long.
Q How old is that child? A Nine months old.
Q Your mother was born in the Cherokee Nation? A Yes sir.
Q And taken to the Wyandotte Nation when a child?
A Her mother and father died, and her step mother took her over there and raised her.
Q They took her there when she was a child? A Yes sir.
Q Your maiden name was Sarahna, was it? A Yes sir.
(1896 Roll, Page 329, #2742, Liberty Barnes, Delaware District)

The applicant applies for the enrollment of herself and one child: She is identified on the roll of 1896, under her maiden name. She states that she was born in the Wyandotte Nation; that her mother is a Native Cherokee; was married there to the Wyandotte

Nation when she, her mother, was a child, and lived there until ten years ago, when they all came to the Cherokee Nation, her mother having lived in the Wyandotte Nation for many years as a married woman.

The applicant's change of name is established by the marriage license and certificate filed herewith.

Her application for enrollment at this time will be placed on a Doubtful Card, for further consideration. There is no evidence that the applicant was ever admitted to citizenship by the Cherokee Commission. She claims that she was told that it was not necessary for them to take that action.

When she presents a proper certificate of the birth of her child, Elmer Lee Long, this child also will be put upon a Doubtful Card with its mother.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Crawford

Subscribed and sworn to before me this 20th day of September, 1900.

COMMISSIONER.

D 347

To be filed with case of Alberta Long, Cherokee D.#347.

SUPPLEMENTAL TESTIMONY.

Cher. D.#345.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., MAY 28th, 1901.

In the matter of the enrollment of Polly A. Sarahas, et al., as citizens of the Cherokee Nation by blood, the following supplemental testimony is offered on the part of Applicants:

MARTIN HENDERSON BERRY, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

APPEARANCES:
Mr. Edgar Smith, Attorney for Applicants.
Mr. W. W. Hastings, Cherokee Representative:

Q Give your full name? A Martin Henderson Berry.
Q How old are you? A I am 72.
Q What is your post office? A Fairland, Indian Territory.
Q How long have you lived in the Cherokee Nation? A About 58. years.

BY MR. SMITH:

Q Mr. Berry, do you know Polly A. Sarahas? A Well, sir, I know her.
Q How long have you known her? A I have knowed her ever since peace, off and on.
Q Do you know who her mother was? A Her mother was Rachel Foster and her father was Bill Hurt, and she was born at the Gilstrap Ferry on Grand river.
Q About what time as well as you can remember? A Well it was along in the summer I reckon, spring or summer, along in the spring of '62, as well as I recollect.
Q Did this woman, Foster or Forester, that you speak of have any brothers or sisters that you knew? A Yes, sir.
Q What were their names? A Wiley Foster and Minerva Foster.
Q Where did Wiley live? A When the war come up he livedon what they call the old Jake Alberty place, near Gilstrap Ferry, right at the ferry.
Q Was this Mrs. Foster, who was the mother of Polly Sarahas, a Cherokee Indian? A Yes, sir, as far as I know she was.
Q well, what do you mean by saying as far as you know? A I don't know, Hooley Bell ain't no Indian any further than any other man as far as I know, of course they were citizens here ever since I come here.
Q well, did she pass for an Indian, is that your understanding? A Yes, sir.
Q Now, do you know when her mother died, Polly Sarahas' mother? A She died in the time of the war.
Q During the war? A Yes, sir, during the war.
Q well do you know where or what became of Polly Sarahas during the war? A Yes, sir.
Q Where did you next see her? A I saw her after peace, moved right back to Gilstrap ferry, small girl.
Q Who brought her back? A Her father.
Q What did you say her father's name was? A Hurt.
Q Bill Hurt? A Bill Hurt.
Q Where is Gilstrap Ferry? A It is right below this railroad about six miles.
Q Is it in the Cherokee Nation? A Yes, sir.
Q well, how long did Bill Hurt as you call him, remain there when he came with his little girl? A Remained there two or three years.
Q Is he living or dead? A He is dead.
Q About when did he die? A Well.
Q About how long after he came back as near as you can remember?

A Some four or five years, maybe six I can't tell; I can't remember that far back just how long he did live.
Q When he died can you state what became of this little girl, Polly Sarahas? A Well, sir, her step-mother took her back up in the Wyandotte Nation and left her.
Q About how old was she when her mother took her back up in the Wyandotte Nation? A I say about ten or fourteen years old.
Q Somewhere between ten and fourteen? A Yes, sir.
Q Well what became of her if you know; did she continue to live in the Wyandotte Nation? A She lived right there until she was married.
Q Whom did she marry? A Married Mr. Sarahas, a Wyandotte Indian.
Q Rachard Sarahas, or do you know his name? A I don't know, neighbor to me too.
Q Well where has she been living since she married Sarahas? A She lived a little while in the Wyandotte Nation and then he moved over here.
Q What do you mean by over here? A Over in the Cherokee Nation.

BY W. W. HASTINTS:

Q Mr. Berry, I don't believe I have got your post office address? A Fairland, Indian Territory.
Q How far do you live from Fairland? A I live right in it.
Q How long have you lived there? A In Fairland?
Q Yes, in the neighborhood. A Well I have lived ever since the year sixty in the neighvorhood only during the war.
Q You knew Mrs. Sarahas then before the war? A She was born right at the beginning of the war, '61, I reckon, as nigh as I can come at it.
Q How far is Gilstrap's ferry from Fraialdn? A It is about seven miles.
Q East? A Yes, sir, pretty nigh due east.
Q What river does that cross, Neosho or Grand river? A Grand river in below the mouth of Neosho.
Q Is Neosho or the Grand river the division line between the Cherokee Nation and the Wyandotte? A yes, sir.
Q What was Mr. Polly Sarahas' father's name? A It was Hurt, William Hurt.
Q On which side of the Grand river did William Hurt live in 1861? A He lived on the west side.
Q Was William Hurt himself a Cherokee by blood? A No, sir, he was a white man.
Q You claim that his wife who was Polly Sarahas' mother was a Cherokee by blood? A Yes, sir.
Q And recognized Cherokee? A Oh, yes.
Q Well, after the war was over you say this applicant directly after the war, you state? A Yes.
Q Her mother was dead then was she? A Oh, yes.
Q And her father married another woman? A yes, sir.
Q And then Polly was taken across over into the Wyandotte country? A Yes, sir.
Q She married a Wyandotte didn't she? A She married a Wyandotte, yes.
Q She testifies that she went there prior, two or three years before '76? A Well I can't say what time she went there, but it was since the war.
Q And she testified that she came back here about the year '90, is that correct? (No response.)
Q About eleven years ago when she came back? A Well I guess it is about correct, because they have got a big farm right this side of Vinita, they have got a big farm there, I guess she is right.

Q Then this woman lived there about 17 or 18 years over in the Wyandotte country? A I guess so, sir.
Q And her husband was a citizen over there? A Yes, her husband was a citizen in Wyandotte, but he is living inside of the Cherokee Nation, he has got land himself over there; he is a Wyandotte but she would not hold her and her children.

BY COM'R BRECKINRIDGE:

Q Mr. Berry, do you know whether Polly Sarahas owned any property in the Cherokee Nation while she was living with her husband in the Wyandotte country? A I do not, I don't know.
Q Well, do you know whether she was living in the State of Kansas or up on the Wyandotte Reservation? A She was up on the Wyandotte Reservation right sough of Seneca, down away below Kansas.
Q You speak of not permitting herself to be recognized or enrollee or something of that sort as a Wyandotte; did you know anything about that? A I don't guess, sir, that she was ever enrolled as a Wyandotte.
Q Do you know anything aboutthat? I know only, know they always called her a Cherokee.
Q Were you living there in the Wyandotte country? A I was living joining on the river about eight miles from where they lived.
Q I understand you to say that she is generally recognized there as a Cherokee and not a Wyandotte? A Yes, sir.

COM'R BRECKINRIDGE:--This will be filed as supplemental testimony case D. #345, and attention will be called to it on the card.

A set of this testimony will also be filed with the case of Alberta Long, D. #347, and a note will be made of it on her card.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 29th day of May, 1901.

A Breckinridge

Commissioner.

"R"

Cherokee D 347

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Alberta Long for the enrollment of herself and children as Cherokee citizens.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I. T., Attorneys for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant and her attorneys were notified by registered letter February 6th that this case would be taken up for final consideration by the Commission on the 25th day of February 1902. Case has been called and applicant appears by her attorneys, Mellette & Smith, Vinita, Indian Territory.

BY MR. HASTINGS: The Cherokee Nation asks that the testimony filed in doubtful case 345, being that of Polly A. Sarahas, the mother of the applicant, be filed and made a part of the record in this case, and calls special attention to the fact that the name of Alberta Sarahas Long, her daughter, received an allotmentin the Wyandotte Nation, as shown in that certificate on file in that case.

BY COMMISSION : The attorney for the applicant and the Representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record. The attorney for the applicant requests and will be granted 15 days in which to file brief in this case, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

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M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

File with Alberta Long, C. D-347.

"R"
Cherokee D 345.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS, in the matter of the application of Polly A. Sarahas for enrollment as a Cherokee citizen.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita,I.T., Attorneys for the applicant;
Mr.W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter on February 6th,1902, that this case would be taken up by the Commission for final consideration on the 25th day of February,1902. The applicant this day appears by her attorneys Mellette & Smith, Vinita, Indian Territory.

(Four witness sworn.)
L.B.BELL, being sworn and examined on behalf of the applicant, testified as follows:
BY MR. MELLETTE:
Q State your name? A L. B. Bell, 63, Vinita.
Q Do you know the applicant, Polly A. Sarahas? A Yes sir.
Q How long have you known her? A Since about '72.
Q Where was she when youfirst got acquainted with her? A Delaware District, Cherokee Nation.
Q How old was she at that time? A She looked like she might be 12 or 13 years old.
Q Who was she living with? A With her father, William Hurts.
Q Do you know her mother? A Yes sir.
Q Where were they living?A Her mother was dead at that time.
Q Where was she living with her father? A At the mouth of Cabin Creek, what is known as Pensacola post-office now.
Q Cherokee Nation? A Cherokee Nation.
Q What do you know about her blood? A Well I only know this much; I was acquainted withher mother, that is Bill Hurts' wife, said to be her mother. Her name was Rachel Forester; she was a sister of Wiley Forester, of the family of folks that lived on the Verdigris they were Cherokees, and this woman married Bill Hurts along about '58 or '9, at the beginning of the war, and they moved up to Grand River, about Gilstrap's Ferry, and she died, I never saw them any more until after the close of the war; he moved into my neighborhood and had this girl with him and kept her there after that. And she was proved up before the Old Settler Cherokee roll as a Cherokee; I was in there with her, and there she was enrolled and paid the money that was due her mother on that account.
BY MR. HASTINGS:
Q What do you say her mother's name was? A Rachel Forester I think.
Q Did you know her mother personally? A Yes; lived right in the house with her for a while.
Q When? A Along about '57 or '8.
Q Did you know her after she married Hurt? A No sir, I never saw her after that.
Q You never saw her then after '57 or '8? A I never saw her after within a year I reckon before she married Hurt; she was a single woman the last time I saw her; I heard afterwards she married Bill Hurt.
Q Then who the mother of this girl was is hearsay to you? A Wholly except-
Q You never knew that Rachel Forester after her marriage to Hurt at all? A No sir.
Q She was dead after the war when you knew Hurt? A She must have died in '62 or '3 from what I could learn of her. I was than grown;

I never saw her after I left Wiley Forester's house.
Q And you saw this girl in '72 or '3 afterwards? A About '72 I reckon. They lived right there in my neighborhood and left there. Bill Hurt died there and he had married a state woman and she moved out, into the Miami Nation and took this girl with her, and she has been there I guess ten years.
Q Well this woman is not on the 1880 roll? A I don't think she is; She never was recognized as a citizen of the Cherokee Nation up until the Strip payment of 1894 was she? A N ot by any official act as I know about.
BY MR. MELLETTE:
Q You say she was recognized by the old settlers? A Oh yes, Polly here proved before the Commission and was put on there and drew her mother's part of the old settler money.
BY MR. HASTINGS:
Q That is a matter of record? A Yes sir.
BY MR. HASTINGS: Then I object to that testimony.
Q That isn't a blood roll is it, the heirsof people that are on that roll? A Not necessarily.
Q Person is not necessarily a citizen that's an heir to the person that's on that roll? A No, that's my judgment, that they wouldn't have to be a citizen.
Q Fact of the business is youknow some of them are in California and elsewhere not recognized citizens who heired part of that money? A Yes sir, I know there are some living out of the country that's not citizens, and I expect you would kick on them if they was to appear here.

TESTIMONY TAKEN ON BEHALF OF THE CHEROKEE NATION.

ALEX COPELAND, being first duly sworn, and being examined testified as follows:
BY MR. HASTINGS:
Q What is your name?A Alex Copeland.
Q What is your age? A 62 years.
Q What is your post-office address? A Echo, I. T.
Q How far is that from Fairland, how far do you live from Fairland?
A About eight miles south.
Q That is in Delaware district? A Yes sir.
Q You are a Cherokee by blood? A Yes sir.
Q Recognized citizen? A Yes sir.
Q Do you know Polly A. Sarahas? A I know her when I see her. I aint personally acquainted withher.
Q How long have you lived in the vicinity of Fairland? A I have lived there off and on ever since '59.
Q Did you know these Forester's that lived around Gilstrap's Ferry? A I never knowed any Foresters living around Gilstrap's Ferry at all.
Q Do you know Will Hurt? A Yes sir, I saw him.
Q When did you know him? A I knowed him '67 and '68, after the war.
Q Did you know him before the war? A No, I didn't know him before the war.
Q Did he have a wife when you knew him? A I don't recollect whether he did or not.
Q Where did he live at that time? A He lived at Gilstrap's Ferry.
Q That was how far from Fairland? A They call it about six miles.
Q How long have you known this woman Polly Sarahas? A I have knowed of her ever since '67.
Q I will ask you if she has been recognized as a citizen of the Cherokee Nation? A Never was that ever I knowed of.
BY MR. MELLETTE:
Q That is a matter of record too, if you are going to confine us to the record; I object to that testimony, because it is a conclusion of law.

Q You never knew of her being recognized? A No sir.
Q You never heard her being called a citizen up there? A Never did.
Q You knew of her living up there since '69? A Off and on I have.
Q You knew Martin H. Berry, who lived up there? A Yes sir.
Q He testified as a witness in this case; what has become of him since he testified? A I heardhe went to Missouri.
Q He has left up there? A Yes sir.
Q Did you ever talk to him about Polly A. Sarahas?
BY MR. MELLETTE: I object to it, because it I suppose is to contradict the testimony of the witness, and they didn't lay the foundation for it by asking hem if he had any talk any such conversation with this man.
BY COMMISSION: Objection is noted; answer the question.
A Yes.
Q What was it? A When the Dawes Commission was at Fairland Mark Berry come to me and said, "Alex, what you going to do about this Sarahas woman?" I says, I don't know, what you going to do about it? Says he: "She is a white woman." I says, yes. That is all the conversation we had.
Q That is while the Commission was at Fairland? A Yes sir.
Q Was that in the summer of 1900 when they first started out?
A When they first started out.
Q Any other Sarahas woman out there than this one? A None that ever I heard of.
Q This Sarahas woman had a sister up there somewhere hasn't she?
A They said she has one, I aint acquainted withher.
Q Where does she live? A I think she lives in Seneca,Missouri.
Q You knew where this Sarahas woman has lived? A No I don't know she has been there in the neighborhood off and on a good while.
Q Well about how long? A Well I think ever since about '67.
Q Well has her sister been claiming any rights ever there that you heardof? A None that ever I heardof.
Q You have lived in that section of Delaware District ever since the war have you? A Yes sir, I come there in '68 to where I am living now, and been there ever since.
Q You lived there a while before the war? A I was there before the war, I was there in '55.
BY MR. MELLETTE:
Q Now do you say this Polly Sarahas has a sister? A That is what they say, yes.
Q Well you knew she has a sister? A No sir.
Q Don't you know she has not any sister? A No.
Q Never had a sister in her life? A No I don't know that.
Q Then you are not going to swear that she had a sister? A No.
Q You are going to take that back? A I wont swear that she has got a sister; they say she has got a sister.
Q Who says? A Mr. Audrain says she has got a sister.
Q I will ask you again if you don't know that she never had a sister, in her life? A No sir, I don't know.
Q You don't know that she had, do you? A I don't know that she has or ever had.

W. SCOTT AUDRAIN, being first duly sworn and being examined, testified as follows:
BY MR. HASTINGS:
Q What is your name?A W.Scott Audrain.
Q Where do you live? A I live near Fairland, Indian Territory.
Q You knew Polly Sarahas? A Yes sir.
Q How long have you known her? A I have known her about 35 years.
Q You didn't know her father or her mother did you? A I knew her father.
Q Where was this woman living when you first knew her? A When I first knew her she was living near Gilstrap's Ferry.
Q Married to her present husband? A Who, this Polly A.Sarahas?
Q Yes? A No, she was an infant then, a child.

Q Where was she living then? A Living with her father, near this Gilstrap's Ferry.
Q Do you know her mother? A No sir. I don't reckon I know her mother. Mr. Hurt had a wife but I don't know it was her mother.
Q How far did you live from the Gilstrap Ferry? A It is about five miles where I lived at that time, where I live now it is about eight miles.
Q You have lived in that neighborhood ever since haven't you? A Yes sir, I have lived always on my father's place until I settled where I live now.
Q Has Polly A. Sarahas been recognized by the community up there as a citizen? A -
BY MR. MELLETTE: I object to that question.
BY COMMISSION: Objection is entered; answer the question.
A No, she has never been recognized as a citizen.
Q You know whether she has a sister or not? A I know there was two girls lived in the same family in '67, back that far; that was of course that's going a long ways back, I don't know positively, that they were sisters, but they were represented to be sisters, as Mr. Hurts' daughters, there was 2 of them.
Q Where is the other one? A Well the last time I saw them together was in Seneca Missouri.
Q You know whether this woman ever lived ever in Seneca, this Polly Sarahas? A Yes sir, she has lived there withthis one, her sister, awhile.
Q Now before that Strip payment in 1894, did you ever hear this woman ever claim to be a citizen of the Cherokee Nation? A No sir.
Q You are well acquainted withthese older citizens up there around that country? A Yes sir. Now understand me in this matter: I heard before that Bill Hur t claimed a right, and these two girls it was my understanding that they was white girls, that he had been married a number of times, that ~~tht~~ is the way I always understood it
Q But you never heard of her being recognized as a citizen up there before that Strip payment or since for that matter? A No.
BY MR. MELLETTE:
Q You say you knew the applicant in '67? A Yes sir, I got back '67, I don't know, but the war,- it was '66.
Q She was living in the Cherokee Nation at that time? A Living in the Cherokee Nation,her father was, and this family near this ferry.
Q Didn't you know the wife of her father at that time was not this woman's mother? A Well sir, that was my understanding,that his wife- that when I knew these children was not this applicant's mother.
Q Don't you know that the other girl that was there was a half sister of this girl? A I don't know.
BY MR. HASTINGS:
Q You know Martin H. Berry? A Yes sir.
Q How far did he once live from Fairland, last year or two years ago? A Why last two or three years he has been living in Fairland.
Q Does he lives there now?A Wellhe has been staying with his son in Fairland,he has no family.
Q Is he staying withhis son now? A He has not been there for the last six months and I was asking his son about him and he said he had went to Missouri.
Q Did you ever talk to him about this woman? A I why yes I have talked with him frequently.
Q Just tell it; with reference to her citizenship? A Why, at the time of the Dawes Commission up there he came to me personally and commenced inquiring of me what I knew about this case and we talked about it, and he told me-
BY MR. MELLETTE: I object to that testimony.
BY COMMISSION: Objection is noted; answer.
A con: He told me he didn't know that this was Rachel Forester's daughter; Mr. Berry told me he didn't know that this was Rachel Forester's daughter, right at the Dawes Commission tent.

BY MR. MELLETTE:
Q Didn't Mr. Berry come from Missouri when he came to testify in that case down at Chelsea, hadn't he been in Missouri before he testified in this case? A Not any length of time. He went on a visit in Missouri and stayed a while; his native home has been in the Territory constantly.
Q But he come from Missouri when he testified in this case? A I don't know when he testified.
Q He had been in Missouri before he testified hadn't he; he testified at Chelsea inJune, hadn't he been in Missouri before that? A This last June?
Q May 28th, hadn't he been in Missouri before that, and didn't he come from Missouri when he came to testify?A I could not say positive; he has been to Missouri; he has been back to visit his friends; some of his relatives I should have said; I don't know, I wouldn't be positive, he might have been there when he testified in that case.

TESTIMONY ON BEHALF OF THE APPLICANT.

POLLY A. SARAHAS, being first duly sworn and being examined testified as follows:
BY MR. MELLETTE:
Q Polly A. Sarahas isn't it? A Yes sir.
Q Mrs. Sarahas, the witness Mr. Audrain testified about seeing a young girl with you at your father's house in '67, or along about that time, who was she? A That was my father's sister.
Q Did you ever have any full sister? A No.
Q Did you ever have a half sister? A I had a little small half sister when my father died; I had a step-mother.
Q What was your half-sister's name? A Annie Hurt.
Q Was her mother your mother?A No sir.
Q Different mothers? A Different mothers.
Q Where does she live now? A I don't know where she is, she left me when I was a small child.
Q The witness,Mr. Audrain, testifies about seeing you in Seneca, Missouri, who were youwiththere? A I never lived at Seneca I never was out of the Territory only in the Wyandotte Territory.
Q Well do you remember of ever going or being in the Seneca with your half sister?A No sir; my half sister was took away from me when she was eight years old and I have never seen her since.
BY MR. HASTINGS:
Q Wasn't your half-sister- didn't she marry a Shoemaker? A I never had any to marry.
Q Did your father's sister marry one over there in Seneca? A No sir, my father's sister is dead; she was never married.
Q You never stayed with anybody around Seneca? A No sir.
Q You never stayed there a week at a time? A No sir, I lived in the Wyandotte Nation with a lady, Mrs. Laughlin.
Q You never got any monry from the Cherokee Nation up until 1894 did you? A I drawed three payments from the Cherokees.
Q When? A I drawed at the court house.
Q What years? A I don't know how long it has been.
Q Well, before 1894 though? A Oh it was when the last payment was paid there at the court house, I don't know what year it is.
Q Mr. L.B.Bell was your atterney then? A No sir.
Q He didn't act for you during that strip payment? A Yes in the Strip payment.
Q He acted for you as your atterney? A Yes sir.
ELIZABETH NOBLE, being first duly sworn and being examined testified as follows:
BY COMMISSION:
Q Whatis your name? A Elizabeth Noble.
Q Whatis your post-office address? A Vinita.
BY MR. MELLETTE:
Q Are you the wife of W.H.Noble? A Yes sir.

Q Do you know the applicant, Polly A. Sarahas? A Yes sir, I know her.

Q Well where did you know her first? A My first acquaintance with her was in the Wyandotte Nation.

Q Was she regarded as a citizen in that Wyandotte Nation in that Miami Country? A She was spoke of as a citizen of the Cherokee Nation.

Q Didn't claim citizenship over there? A Oh now, not that I knew of. I never heard anything that way.

BY MR. HASTINGS:

Q When did you know her there? A '73, when she was a girl.

Q Husband a Wyandotte? A Yes sir.

Q Who spoke of her as a citizen of the Cherokee Nation? A Mrs. Laughlin.

Q Who was Mrs. Laughlin, Wyandotte? A Wyandotte.

Q She was not a Cherokee, Mrs. Laughlin? A No sir, she was a Wyandotte.

Q That is all the woman you ever heard speak of her as a citizen of the Cherokee Nation? A No, I heard several of them speak of her as a Cherokee; I asked what girl that was staying with Mrs. Laughlin and they said it was a Cherokee girl.

BY COMMISSION: The following is offered in evidence by the Cherokee Nation:

"Seneca Training School,
Wyandotte, Quapaw Agency, I.T., February 17, 1902.

To whom it may concern:

I hereby certify that Polly A. Sarahas received no allotment in any of the reservations in this agency, and that the allotment received by her children in the Wyandotte reservation, Quapaw Agency, Indian Territory, is as follows:

"Elmer Sarahas, son, deceased; E. 1/2 of S.E.1/4 Sec. 18, T. 27 R. 25 W. E 1/2 of N.W. 1/4 of Sec 32, T. 27 R.25 containing in all 40 acres.

Alberta Sarahas Long, daughter, W 1/2 S.E. 1/4 Sec. 18 T. 25 R. 25; W. 1/2 N.W. 1/4 of Sec. 32, T. 27, R. 25, containing in all 40 acres.

Frank Sarahas, son, lot 1, N.W. 1/4 sec. 17, T. 27 R. 25; lot 4 N.E. 1/4 sec. 18, T. 27 R. 25, containing in all 34.50.

I further certify that no children of Alberta Sarahas Long received any allotment of any reservation of this agency.

The above named children of Polly A. Sarahas are members of the Wyandotte tribe of this Agency, which tribe received no annuities from the U.S. government.

Certified to by me this 17th day of February, 1902.

Horace B. Durant,
Superintendent and acting United States Indian Agent."

BY COMMISSION: The attorney for the applicant and the representative of the Cherokee Nation submit this case to the Commission and same is ordered closed and reported to the Commission for decision, based upon the evidence now of record. The attorney for the applicant requests and will be granted 15 days in which to file in this case a brief, one copy with the Commission and one copy with the representative of the Cherokee Nation.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed)M.D.Green.

Subscribed and sworn to before me this February 27,1902.

(signed)T.B.Needles, Commissioner.

I,M.D.Green, do hereby certify as stenographer to the Commission to the Five Civilized Tribes that I made the foregoing copy and that same is a true and complete copy of the original transcript.

M D Green

C Dr 347

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
MAR 20 1902

ACTING CHAIRMAN

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., Mx April 4, 1902.

In the matter of the application of
Alberta Long for enrollment as a
citizen of the Cherokee Nation. C. D. 347.

Brief on behalf of the Cherokee Nation.

The applicant, Alberta Long, is the daughter of Polly A. Sarahas, listed on Cherokee Doubtful card No. 345; and in addition to what is contained in the brief submitted int hat case special attention is called by the Cherokee Nation to the fact that this applicant, Alberta Long, took an allotment and is a recognized citizen in the Wyandotte Nation, which of itself, it is contended, would exclude her from enrollment in the Cherokee Nation.

Respectfully submitted,

_____

Attorney for the Cherokee Nation.

Cherokee D. ~~157~~ 347.

Alberta Long.

Brief on behalf of the
Cherokee Nation.

S D 247

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Stephen Foreman and his wife Maud Foreman, as citizens of the Cherokee Nation.

On the 10th day of September, 1900, Stephen Foreman appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of himself as a citizen by blood, and for his wife as a citizen by intermarraige of the Cherokee Nation.

At the conclusion of the testimony offered at that time the names of Stephen and Maud Foreman were placed upon a "Doubtful" card, awaiting further evidence which has been submitted to the Commission, and the following decision is rendered.

From all the evidence of record in this case it appears at the time of this application Stephen Foreman was 49 years of age, and is identified on the Cherokee census roll of 1896 as "Steve Forman Saline District.

It is further shown, as evidenced by a certified copy of the records of the Executive Office Cherokee Nation, and which is made a part of this record; that among others Stephen Foreman was readmitted to citizenship in the Cherokee Nation on the 29th day of November, 1880.

It appears that he was formerly living in the Choctaw Nation, and moved back to the Cherokee Nation in 1892. He is not identified on the Cherokee Strip Payment roll of 1894, but avers that he drew "grass money", under the provisions of said roll.

It further appears that he was married to Mrs. Maud Hunter, nee Gess, a white woman, "between 1884 and 1890", as evidenced by a statement in writing of the Minister who performed the ceremony; said statement being on file in the office of this Commission, and a copy

thereof is hereto attached.

The Commission is authorized to make rolls of citizenship of the Cherokee Nation by the provisions of the Act of Congress approved June 28, 1898. (30 Stats. 495, Sec. 21)

In view of the facts and the law in this case, it is the opinion of the Commission that Stephen Foreman is entitled to be enrolled as a citizen by blood of the Cherokee Nation, and his wife Hand Foreman is entitled to be enrolled as a citizen by intermarriage of the Cherokee Nation, and it is therefore so ordered.

Commissioners.

Dated at Muskogee, Indian Territory,
MAY 27 1902

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the APPLICATION OF ALBERTA LONG.

The applicant, Alberta Long, is the daughter of Polly Sarahas, and the case of the applicant involved in this application is submitted upon the brief filed in the case of Polly Sarahas, Cherokee, doubtful, Number 545.

Respectfully submitted,

Alberta L Smith

No. 347

Albertson

v.

Cheroker N.

Copy for Ct

Brief

Merritt & Smith
for Applicants

Seneca Indian Training School,

Wyandotte, Quapaw Agency, I. T.

February17, 1902.

To Whom it may concern, I hereby certify that Polly A. Sarahas received no allottment inany of the reservations in this Agency, and that the allottments received by her children in the Wyandotte Reservation, Quapaw Agency, Indian Territory are as follows:

Elmer Sarahas, son, deceased, E/2 of SE/4-Sec. 18-T. 27-R. 25 and E/2 of NW/4 of Sec. 32- T. 27- R. 25, containing in all all 40 acres.

Alberta Sarahas Long, daughter, W/2 of SE/4 Sec. 18- T. 27- R.25 and W/2 of NW/4 of Sec. 32- T. 27- R. 25, containing in all 40 acres.

Frank Sarahas, son, Lot 1- NW/4 of Sec. 17- T. 27- R. 25 and Lot 4- NE/4 of Sec. 18- T. 27- R. 25, containing in all134.51 acres.

I further certify that no children of Alberta Sarahas Long received any allottment on any Reservation in this Agency.

The above named children of Polly A. Sarahas are members of the Wyandotte Tribe of this Agencywhich tribe receive no annuities from the U. S. Government.

Certified to by me, this 17 day of February 1902.

Horace B. Durant

Superintendent and Acting

U. S. Indian Agent.

April 5, 1902.

C. N. 347.

ellette & Smith,

Vinita, I. T.,

Gentlemen:

Enclosed herewith find a copy of the brief of the Cherokee Nation in case Cherokee N. 347., Alberta Lowe, et al. Please acknowledge receipt, and oblige,

Yours truly,

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes rendered May 27th, in the matter of the application of Stephen Foreman for the enrollment of himself as a citizen by blood of the Cherokee Nation, and for the enrollment of his wife, Maud Foreman, as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of said persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. D-247.

Alberta Ry. et al

Transferred to Criminal R-978

Cher D 348

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 19th, 1900.

IN THE MATTER OF THE APPLICATION OF Harriet Ross for enrollment as a citizen of the Cherokee Nation, and she being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q Give me your full name? A Harriet Ross.
Q What is your age? A Sixty four.
Q What is your Postoffice? A Adair.
Q In what District do you live? A Delaware.
Q Who is it you want to have put on the roll? A Just myself sir.
Q Are you a Cherokee by blood? A No sir; I am a Shawnee by blood.
Q How long have you lived in the Cherokee Nation?
A For the last thirty years.
Q Are you on the roll of 1880? A Yes sir.
Q What District were you in then? A Coowee coowee.
Q In what district were you in 1896? A I can not remember; I have lived in both places.
Q Was your name Ross in 1880? A No sir.
Q What was it in 1880? A Tucker.
Q Was that your maiden name? A No sir.
Q What was your name before it was Tucker? A I have been married four times.
Q What was your name in 1880? A My first husband was Daugherty.
Q Was he living in 1880? A No sir.
Q Did you married some one else before 1880? A Purcell.
Q Was your name in 1880 was Purcell? A Yes sir.
Q How long have your name been Ross? A Six years.
Q What is your father's name? A Jones.
Q His given name? A I do not know.
Q What is your mother's name? A Catharine Parks.
Q Is your father dead? A Yes sir.
Q Is your mother dead? A Yes sir; died when I was an infant.
(1880 Roll, Page 186, #2902, Harriet Tucker, Coowescoowee Dist)
(1896 Roll, Page 611, #307, Harriett Ross, Delaware District)
Q Is there some one here who knew you when you were Harriet Tucker?
A Yes sir.
Q Who? A Mr. Gore.

Jonathan Gore, being called and sworn, testified as follows:
Q What is your full name? A Jonathan Gore.
Q What is your age? A Sixty seven.
Q What is your Postoffice? A Blue Jacket.
Q How long have you lived in the Cherokee Nation? A I have lived permanently at Blue Jacket twenty one years.
Q Do you know this lady here, Harriet Ross? A I have known her since 1844.
Q Her name is Harriet Ross, is it? A Her name is Harriet Ross.
Q Did you know her when she was Harriet Tucker? A Yes sir.
Q She is one and the same woman? A Yes sir.

Applicant recalled:
Q How mad are you appear to be on the roll of 1880, as an adopted white? A There must be a mistake, for I can prove my blood.
Q You have been living here thirty years; is your mother on the roll of 1880? A My mother has been dead many years.
Q Is your father on the roll of 1880? A No sir; he is not living; my father was a white man.
Q What is the full name of your husband, Tucker? A Charles Tucker.
Q When did you marry him? A I have not the date here.
Q Tell me as near as you can? A I married in; my memory is poor; I can not tell you.
Q When did he die? This note states that he died December 23rd, 1891, is that about right? A Yes sir.

Q Now you were married to him in 1880; I suppose you were enrolled under his name? A Yes sir.
Q He died in 1891, and after his death, you married again?
A Yes sir.
Q Who was it you married after his death? A Ross.
Q What is his name? A William W Ross.
Q Is he a Cherokee or white man? A White man.
Q Is he still living? A Yes sir; he is still living
Q Is he not living with you? A He is not with me at present.
(1880 Roll, Page 186, #2901, Charles Tucker, Coowescoowee Dist)

Jonathan Gore recalled:
Q Mr. Gore, what do you know about this lady being a Native Cherokee? A She is a Shawnee; my information is that she is a Shawnee by blood. The way I know this fact; I married into the Shawnee Tribe in 1858, and her former husband, J. Daugherty was a half brother of Mrs. Charles Bluejacket, my wife's mother.
Q Do you think that is a clerical error? A I certainly do sir.

The applicant is identified on the rolls of 1880 and 1896, as an adopted white : Her husband at the time of her enrollment in 1880 is on the roll as an adopted Shawnee. The applicant has lived in the Cherokee Nation ever since her enrollment in 1880. According to her testimony, since the death of her husband Tucker in 1891, she has married a white man, named W. B. Ross, to whom she is married at this time, but with whom she is not at present living.
Now the applicant claims that her enrollment as an adopted white in 1880 is erronious; that she is a Shawnee; and this is supported by competent personal testimony: For the further consideration of this Commission, the decision upon her application will be suspended, and she will be carded accordingly. The final decision will be made known to her when it is rendered.
Sundry papers are offered, but the decision in regard to their admission is not yet formally made.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Evans

Subscribed and sworn to before me
this 21st day of September, 1900.

C Shurtleff

COMMISSIONER.

R348 a-

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 21 1900

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 20, 1900.

In the matter of the application of Harriett Ross.

In the matter of the application of Charles Purcell.

Additional testimony.

David Daugherty, being sworn and examined, testified before Commissioner Needles as follows:

Mr.W.W.Hastings, representative of Cherokee Nation: Do you know the woman who is on the Shawnee roll as Harriett Purcell and her son Charles Purcell? A I know her, but I don't know the boy at all, I have heard of him is all.

Q Who was Harriett Purcell and what was her blood? A She is a white woman.

Q State how you know? A It has been tested in our Council, I used to be a member of the Shawnee Council, and it was tried; she is kin to Captain Parks, our Principal Chief of the Shawnee Tribe, but it is on the white blood. Captain Parks is very nearly a white man.

Q Who was Harriett Purcell's first husband? A Lewis Daugherty, he was my cousin.

Q Lewis Daugherty was a Shawnee by blood? A Yes, sir, just the same as I am.

Q And that was the way she became adopted? A That is the way she became adopted into the tribe.

Q Do you know her Purcell Husband? A Yes, sir, know him well.

Q Was he a Shawnee by blood? A No, sir, he was a white man.

---o---

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 20th of September, 1900.

C. R. Needles

Commissioner.

SUPPLEMENTAL.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September [illegible], 1900.

In the matter of the application of Harriet Ross for enrollment as a Cherokee citizen.

[illegible] E. A. Rogers being sworn and examined by Commissioner [illegible] testified as follows:

Q What is your name? A Henry E. A. Rogers.
Q What is your age? A About sixty-nine.
Q What is your post-office? A Vinita.

Examined by Cherokee Representative and Atty'y W. T. Hutchings:

Q Did you know Carrie Purcell? Who is now Harriet Ross? A Yes I know her.
Q Was her first husband Dougherty? A Yes sir.
Q Was she a white woman or a Shawnee Indian? A I think she was a white woman.

DAVID C. DUSHAW, being sworn and examined by Commissioner [illegible] testified as follows:

Q Give your name? A David C. Dushaw.
Q What is your age? A I am about forty.
Q What is your post-office? A Seneca, Missouri.
Q What is your district? A Quapaw Agency.

Examined by Cherokee Attorney W. T. Hutchings:

Q [illegible] an Indian or [illegible]? A Shawnee Indian.
Q [illegible] Carrie Purcell who is now Harriet Ross? A Yes sir.
Q [illegible] A I married a second husband, Louis Dougherty.
Q [illegible] Dougherty a citizen of the Shawnee Tribe of Indians? A Yes sir.
Q [illegible] A I don't know.
Q [illegible] Do you know? A Yes sir, since Vinita.
Q [illegible] now? A That's all I know.
Q [illegible] you know about whether she is a Shawnee Indian or a white woman? A She is a white woman.
Louis Dougherty told me that he was going to marry a white woman.
Q [illegible] application to the Shawnee Council for citizenship with you? A [illegible] I know of.
Q [illegible] A Yes sir.
Q [illegible] white or was Carrie [illegible]?
A [illegible]

I, [illegible], official stenographer, do hereby state that as stenographer to the Commission to the Five Civilized Tribes I correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of my stenographic notes thereof.

[illegible]

Subscribed and sworn to before me this [illegible] day of September, 1900.

[illegible]
Commissioner

D348

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

ACTING CHAIRMAN

Supplemental testimony to go with Doubtful Cards Nos. 375 & 348.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 29, 1900.

Supplemental testimony in the matter of the applications of Mary E. Purcell et al. and Harriet Ross for enrollment as citizens of the Cherokee Nation.

J. W. PURCELL, being sworn by Commissioner T. B. Needles, testified as follows:

Examination by W. A. Mallett, Attorney for Applicants:

Q What is your name? A J. W. Purcell.
Q What is your wife's name? A Mary E. Purcell.
Q What is your children's names? A William R. and Carl B.
Q Have you been placed upon the roll by this Commission? A Yes, sir.
Q What tribe did you belong to originally? A Shawnee tribe.
Q What was your mother's name? A My mother's maiden name was; she went by the name of Harriet Tharp.
Q Where is your marriage license to your wife? A They are on file at this office.
Q You were placed upon the roll a few days ago were you? A Yes, sir.

Rachel Rogers being sworn, testified as follows:

Q What is your name? A Rachel Rogers.
Q Where do you live? A Ten miles south of Vinita.
Q Did you know Graham Rogers? A Yes, sir.
Q Of what Indian blood was he? A Full blood.
Q What tribe? A Shawnee.
Q Was he at one time Chief of the Tribe? A Yes, sir.
Q Do you know whether he was Chief of the Shawnee Tribe in 1870, April 9th? A Yes, sir.
Q I hand you a certificate with a name, purporting to be that of your father, Graham Rogers; please examine it and see if that is his name? A (Document shown witness and examined by him.) A Yes, sir.

C. C. Carnatzer, being sworn, testified as follows:

Q What is your name? A C. C. Carnatzer.
Q Where do you live? A Vinita.
Q Do you know S. W. Carnatzer? A Yes, sir.
Q What relation was he to you? A Father.
Q Here is a certificate signed by S. W. Carnatzer, Clerk of Shawnee Council; I will ask you to see that that is your father's signature? (Document shown witness and examined by him.) A Yes, sir.
Q Do you know whether he was Clerk of the Shawnee Council in 1870, April 9th? A Yes, sir.
Q Is he dead or alive? A Dead.

Commissioner Needles:--Applicant presents the following certificate:

"Council Rooms, Johnson County, Kansas,
April 9th, 1870.

TO ALL TO WHOM IT MAY CONCERN:

This is to certify that H. W. Purcell was legally married to Harriet Dougherty, a member of the Shawnee Tribe of Indians, December 31, 1860, and regularly adopted with all the rights, titles,

privileges and immunities of said Tribe of Indians, from and after the day and date first above written.

IN TESTIMONY WHEREOF we have hereunto affixed our names.
Graham Rogers, Charles Tucker, Knocking Head
Chief and Asst. Chief of the Shawnee Tribe of Indians.
(Signatur wi tness)
S. M. Cornatzer, Clerk."

Sallie Gore, being sworn, testified as follows:

Q What is your name? A Sallie Gore.
Q Where do you live A Near Bluejacket
Q Do you know the person named in this certificate, which is copied as Harriet Dougherty? A Yes, sir.
Q What was her maiden name? A Harriet Thorp.
Q How long have you known her? A My earliest recollection about 56 years. I have known her ever since I was about seven or eight years old.
Q You have known her about 48 years? A Yes, sir.
Q What Tribe of Indians do you belong to? A Shawnee
Q Where did you know her? A In Johnson County, Kansas.
Q On what lands was that? A Shawnee Reservation.
Q State what you know about her being a Shawnee Indian? A I never knew anything else of her only as a Shawnee Indian.
Q Do you know whether she took her allotment of lands there as a Shawnee indian?A Yes, sir, she drew lands and shared the same rights and privileges that I did.
Q Is she the mother of Mr. J. W. Purcell, who applies to have his wife and children enrolled in this proceeding? A Yes, sir.

William Chouteau, beingsworn, testified as follows:

Q What is your name? A William Chouteau.
Q Where do you reside? A Right here at Town.
Q What is your blood? A Shawnee.
Q Do you know a woman called Harriet Dougherty, formerly Harriet Thorp? A I used to know her when she was young.
Q What was she known as when you knew her, was it Thorp; before she was married what was her name at that time? A They called her Thorp.
Q What was her status with the Shawnee Tribe of indians? A Some said she was Shawnee and some said she was white.
Q What can you say as to her rights with the Shawnee Tribe of indians? A She was married to a Shawnee and I suppose she had a right from that. Louis Dougherty was her husband.

Cross-examination by P.C.West, Cherokee Representative:

Q Opinion was about equally decided as to whether she was Shawnee or white? A Some said she was white and some Shawnee.
Re-direct examination by W. A. Wallett, Attorney for Applicants:
Q Where did she live then, where did she reside? A Shawnee Reservation.
Q Did you know whether she drew her land as a Shawnee? A Yes, sir, I think she did, land and money too; after she married a Shawnee she was adopted, of course.

Harriet Ross, being sworn, testified as follows:

Q What is your name? A Harriet Ross.
Q What was your maiden name? A I went by the name of Jane Harriet Thorp. They had when I enrolled here, I made a mistake and put my name down Jones. That was my father's name I have been told, but I always went by the name of my step-father. They never knew me by the name of Jones, but I have been told by older people that my father's name was Jones and I do not know why I put it down that way.
Q How did that come about? A Just happen to, they
Q Your mother's husband, what became of him before you were born?
A He was taken away to the Penitentiary and staid there for five years.
Q Were you born in his absence? A Yes, sir.
Q So you are informed? A Yes, sir.
Q Did he return and live with your mother? A Yes, sir.
Q You always went by his name? A Yes, sir.
Q What did you say about giving your name as Jones? A I say that I give me name as Jones instead of Thorp. I should have give it in as Thorp because my name was always put in as Thorp.
Q Are you the mother of Mr. J. W. Purdell, who asks to have his wife and children enrolled here? A Yes, sir, I am the mother of them
Q Where have you lived since you remember? A Shawnee race of people.
Q Always? A Always resided with them.
Q You were not enrolled the other day? A No, sir, I think not.

Cross examination by P.C.West, Cherokee Representative:

Q What is your notion about where you were born? A As near as I could learn about it, I was born in Michigan.
Q What part of Michigan? A I do not know anything about that. I was not enough informed this way.
Q You have made that a rule all of your life to inquire about your family history? A I never had any desire to know.
Q You never had any desire to know your own family history?
A I never had any one to ask about it.
Q You did ask about it? A This old gentleman told me about it and I ask him some questions.
Q What did he say? A He said he had always known my mother and knoed my father. He said he knewed my mother was quarter blood Shawnee.
Q Who was this old gentleman that imparted this information? Mr. Pearl, he is dead.
Q He is the only man that ever know anything about you? A Yes, sir he is the only one.
Q What was the name of the man Jones that you were told was his father? A He never stated his father, he just said Jones. I did not ask him his given name.
Q Who told you Jones was your father? A Mr. Pearce.
Q When did you fall in with Mr. Pearce? A I have known him since him since I was a child.
Q Where did your mother become acquainted with this man Thorp? A I do not know about that.
Q Did you ever hear about where they were married? A Never heard anything about that, she died when I was small.
Q Was thorp the man that was sent to the Penitentary? A Yes, sir.
Q Where was he sent from to the Penitentary? A There where they lived.
Q In Kansas? A There in Michigan.

Mary E. Purcell et al.--4.

Q Had he come back from the Penitentiary when you were old enough to recollect? A I do not recollect anything about it, I was young. I was too small to know anything.

F. M. Smith, being sworn, testified as follows:

Direct examination by W. A. Mallett:
Q What is your name? A F. M. Smith.
Q Where do you reside? A Vinita.
Q Here is an affidavit purporting to have been executed by Charles Bludjacket on the 23d day of April, 1887, your name is signed as a witness to his signature; I will ask you if you signed your name there and if Charles Bludjacket executed that affidav it? A Yes, sir.
Q The affidavit is executed before G.W. McKiwing, Notary Public. Warren Williams also signs that the witness is true; that is correct? A Yes, sir.
Q Here is an affidavit, Mr. Smith, purporting to have been executed by Theresa Brown. Yourself Warren Williams and Charles Tuake, signing as witnesses to her signature. Said affidavit having been executed before G. W. McKwing, Notary Public, on the 16th day of April, 1887. Did Theresa Brown execute that affidavit as she purports to have done? A Yes, sir.

Harriet Ross, recalled, further testified:

Examination by P. C. West, Cherokee Representative:

Q I want to know which side of the house you claim your Shawnee blood? A My mother's.

Xx-xx Interrogatories by W.A.Mallett, Attorney for Applicants:

Q Did you know a man by thename of Captain Joseph Parks A Yes, sir
Q What relation was he to your mother? A He was her brother.
Q Was he Shawnee Indian? A Yes, sir.
Q How long did you live in Kansas before you come to this country?
A I lived all my life there.
Q From your earliest recollection? A Yes, sir
Q On what reservation? A Johnson County, Kansas.

P. C. West, Cherokee Representative:
Q When did you come to the Indian Territory? A I come when they all come.
Q What do you mean by that? A The whole Tribe of Shawnees.
Q You have been here ever since? A Yes, sir.
Q Is your husband living? A No, sir, dead.
Q When did you marry him? A Six years ago.
Q Was he white man? A Yes, sir, white man.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 2d day of October, 1900.

C H Mansfield

Cherokee D-549.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 21, 1901.

In the matter of the application of Harriett Ross for enrollment as a citizen of the Cherokee Nation.

Supplemental testimony on behalf of the applicant.

Appearances:
Mellette & Smith, attorneys for the applicant;
J. L. Baugh, Cherokee Representative.

HARRIETT ROSS, the applicant, being duly sworn by Commissioner Needles, testified as follows:

Mr. Smith: State your name? A Harriett Ross.

Q What is your postoffice? A Adair.

Q Are you the same Harriett Ross who applied to this Commission for enrollment last September, 1900? A Yes, sir.

Q What I want to know, Mrs. Ross, is whether your name appears upon the roll of Shawnees who came here in accordance with the Treaty of 1869? A Yes, sir.

Q What was your name at that time? A My name was Harriett Purcell.

Q Were you marriet at that time? A Yes, sir.

Q What was your husband named? A R. W. Purcell.

Q Give me the names of your children at that time? A Well, I will commence at the oldest, Miriam Daugherty and Mary.

Q Mary Daugherty? A Yes, sir.

Q Go on and give their full names, Mary Daugherty? A Yes, sir, Mary Daugherty; Edward Daugherty, James Daugherty, and Lucy Daugherty.

Q Well, did you have any other children at that time? A Yes, Charles Purcell.

Q Well? A And Alice Purcell, Ida Alice.

Q All right? A And Wesley Purcell and Lincoln Purcell.

Q What was your husband's name? A R. W. Purcell.

~~Q What was the name of your husband at that time~~ A John Wesley.

Q Did Wesley have any other name than Wesley? A

QQ Did Lincoln have any other name than Lincoln? A Squire Lincoln, I don't think that we ever put in that.

Mr. Smith: If the Commission pleases, I would like to have the Shawnee roll examined for the name of this applicant, and for the purpose of identifying her, the names of her husband and children at that time.

Commissioner: The applicant presents a printed register of the names of the members of the Shawnee Tribe of Indians who had moved to and located in the Cherokee Nation, Indian Territory, prior to the 10th day of June, 1871, within two years from the 8th day of June, 1869, in accordance with the agreement entered into between the Shawnee Tribe of Indians and the Cherokee Nation of Indians through their delegates in Washington City, D.C., United States of America, on the 7th day of June, 1869, approved by the President of the United States on the 8th day of June, 1869, in accordance with the 15th Article of the Cherokee Treaty with the United States proclaimed August 11, 1866; said printed list being in the hands of the authorities of the Cherokee Nation. On said list applicant calls attention to the fact that No. 529 appears as the name of Harriett Purcell, and that one R. W. Purcell appears as No. 558 on said list, and that William W., Sarah E., and Charles H., Ida Alice, John Wesley and S. Lincoln Purcell appear as numbers 530, 531, 532, 533, 534, and 535 respectively. Applicant also calls attention to the fact that on said list No. 231 appears the name of one David Daugherty, No. 232 appears the name of one Ellen Daugherty, No. 233 appears the name

of one Charles Daugherty; No. 234 appears the name of one Daugherty, Christian name blank.

JONATHAN CORE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Smith: State your name? A Jonathan Core.

Q What is your age? A 68.

Q Where do you live? A Near Bluejacket, in Delaware district, Cherokee Nation.

Q Are you acquainted with Mrs. Harriett Ross, the lady who has just left the witness stand? A Yes, sir.

Q How long have you known her? A I have known her since '58.

Q Do you know whether she is the same Harriett Ross who was enrolled upon that Shawnee Roll that was made in accordance with the Treaty of 1869, with her husband, R. W. Purcell? A She is the identical woman.

Commissioner: This will be filed and made part of the record in Doubtful card D-348.

****

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 28th of October, 1901.

Commissioner.

9

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
NOV 9 1901

ACTING CHAIRMAN

"B"

Cherokee D 348

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25, 1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Harriett Ross for enrollment as a Cherokee citizen.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I. T., attorneys for the applicant;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant and her attorneys were notified by registered letter February 6,1902, that this case would be taken up for final consideration by the Commission on the 25 day of February, 1902. Receipt has been acknowledged of the Commission's letter and the applicant this day appears by her attorneys, Mellette & Smith, Vinita,I.T.

BY MR. MELLETTE: The attorneys for the applicant state that she is a registered Shawnee, and desire the certificates attached to the roll of registered Shawnees to be copied in full in this testimony.

BY COMMISSION: The attorneys for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record.

The attorney for the applicant requests and will be granted 15 days in which to file a brief, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

D B Thom

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes.

Muskogee, I. T., April 8, 1902.

In the matter of the application of
Harriett Ross for enrollment as a
citizen of the Cherokee Nation. C. D. 348.

BRIEF ON BEHALF OF THE CHEROKEE NATION.

-:-:-:-:-:-:-:-:-

The applicant applies to be enrolled as a citizen of the Cherokee Nation ~~xxxxxxxxxxx~~ of Shawnee blood; but upon examination of the roll of 1880 she is found to be enrolled as an adopted white, and the Cherokee Nation contends that her status is fixed by that enrollment; that at that time the question must have been gone into by the National Council of the Cherokee Nation, and after a thorough investigation she was enrolled as an adopted white, and this roll was authenticated by an act of the National Council. She suggests that this is simply a clerical error, and that she is of Shawnee blood; but upon investigation the testimony of Henry F. A. Rogers, David C. Dushane and David Daugherty, in this case, all recognized to be reputable Shawnee citizens of the Cherokee Nation, shows that she is a white woman, and not of Shawnee blood, and that she was correctly enrolled in the year 1880. Her first husband was a Shawnee and she was enrolled with him as his wife when she came to the Cherokee Nation with the Shawnees in 1870. She had been married some four times; her last husband, Ross, is not a citizen of the Cherokee Nation, and the Cherokee Nation contends that this applicant forfeited her right to be enrolled as a citizen of the Cherokee Nation by her intermarriage with him.

Counsel for applicant in their brief depend upon the testimony of Jonathan Gore, whereas he does not state that she is of Shawnee blood:- but that he only knew her in Kansas among

the Shawnees. Whereas the three witnesses above referred to, one of whom was the cousin of her first husband, swear that she is a white woman, and that she got her rights through her Shawnee husband. As has been contended in a number of ~~xxxxxx~~ cases heretofore briefed the Cherokee Nation insists that the act of Congress approved June 28, 1898, confirmed the 1880 roll, and the Commission is authorized and directed to be governed by that roll. It gets its jurisdiction from this act of Congress, and the Cherokee Nation contends that the status of a person whose name appears upon that roll as defined by the roll is as much a part of it and was as much confirmed by that act of Congress as any other part of the roll; and that the Commission is as much bound to take the status of such person as it is to enroll a person whose name appears upon that roll. If our contention be true then this woman was an adopted white woman in 1880, she knew her status as fixed by the Cherokee National Council, abided by it and acquiesced in it, and for twenty years she raised no objection to it until after her marriage with her present husband, Ross, violating Section 609 of the Compiled Laws of the Cherokee Nation of 1892. It certainly appears, both from the testimony and from the status of this woman as fixed by the roll of 1880, that she is a white woman and that she has forfeited her right to be enrolled as a citizen of the Cherokee Nation by intermarriage with her present husband.

Respectfully submitted,

W. W. Hastings
Attorney for the Cherokee Nation.

[illegible] D. [illegible].

[illegible] [illegible] [illegible].

[illegible] [illegible] [illegible] [illegible].

7163

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

In the matter of the application for the enrollment of Harriet Ross as a citizen of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 1 , 1900, Harriet Ross appeared before the Commission at Muskogee, Indian Territory, and made application for the enrollment of herself as an adopted Shawnee citizen of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on September 20, 21 and 22, 1900, and October 31, 1901.

The evidence shows that Harriet Ross is identified, as Harriet Purcell, on the list of Shawnees who removed to the Cherokee Nation within two years of an agreement by and between the Cherokee Nation and the Shawnee Tribe of Indians, June 7, 1869, approved by the President of the United States June 8, 1869. She is also identified on the Cherokee authenticated roll of 1880.

The evidence further shows that said Harriet Ross has lived in the Cherokee Nation continuously since 1870.

It is, therefore, the opinion of this Commission that Harriet Ross should be enrolled as an adopted Shawnee citizen of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.

T. B. Needles.

C. R. Breckinridge.

Tal Texas Leo

Entered at Muskogee, I. T.,
this MAR 20 1903

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE APPLICATION OF [illegible] FOR ENROLLMENT OF [illegible] AS A CHEROKEE CITIZEN. CHEROKEE ENROLLMENT. # 540.

-:OPINION AND ORDER.:-

The testimony in this case shows that the applicant is a registered Shawnee and resides in the Cherokee Nation under and by virtue of the treaty between the Cherokees and Shawnees.

It also appears that her name is on the roll of 1880, as an adopted white. While the testimony is to some extent conflicting as to her blood, all the facts disclosed by the testimony indicate that she is in blood a Shawnee Indian. The testimony of Jerusha Dore, upon this point on hand, is entitled to more weight than that of any other witness as to the question of the blood of the applicant. He has lived since 1858, among the Shawnee Indians, married into the tribe and is a man of good ability and whose testimony can not be questioned.

It seems to me there are two reasons why the applicant should be admitted to citizenship in the Cherokee Nation: she is on the 1880 roll and she is also a registered Shawnee.

There is incorporated in the testimony in this case the certificate of Joel B. Mayes, Chief of the Cherokee Nation, certifying that the Shawnees named on the roll of 772 Shawnees are registered Shawnees and are in the Cherokee Nation by virtue thereof. There is also incorporated in the testimony the certificate of Thomas Wildcat, and Daniel Parker, late Chief and Assistant Chief of the Shawnee Tribe of Indians, dated Aug. 2nd 1874, that the 772 names in a true copy of the register of the members of the Shawnee Tribe of Indians who moved to the Cherokee Nation under the treaty. These two certificates are attached to the roll of 772 Shawnees as located in the Cherokee Nation as aforesaid.

The agreement between the Shawnees and Cherokees was concluded June the 7th, 1869, and provides in substance that the Shawnees

[illegible] elsewhere shall be received [illegible] citizens of the [illegible] in consideration of certain [illegible] transferred [illegible] for the use and benefit of the Cherokee Nation, and [illegible] is to be [illegible] of the [illegible] of the [illegible]

> " [illegible] of the [illegible] every [illegible] of native citizens of said Cherokee Nation: Provided, that all of said [illegible] themselves of the [illegible] permanently located [illegible]."

[illegible]

[illegible] of the fact that the appli- [illegible] 1880, [illegible] register [illegible] treaty [illegible] of the [illegible]

[illegible]

[illegible] of the Cherokee Nation [illegible] the nature of an [illegible], long or [illegible], as it [illegible] the soil of the Cherokee Nation. [illegible]

[illegible]

[illegible] 2 vol. page [illegible], says:

> "The general rule has, however, been asserted which certainly rests upon [illegible] justice. It is, that where a party has accepted and [illegible] its own [illegible] of a contract, he has estopped himself from denying in the courts the validity of the instrument by which those [illegible]."

[illegible] rights in the Cherokee Nation. [illegible] twenty [illegible] it [illegible] Indian [illegible] Cherokee [illegible] of Indians [illegible] that the [illegible] conveyed. [illegible] is estopped [illegible] privileges [illegible] public [illegible] "[illegible]" [illegible] blood; still [illegible] Nation, [illegible] Cherokee [illegible] should enjoy all [illegible] conclusion [illegible] extreme.

[illegible] contend that the [illegible] Nation, but [illegible] of the [illegible]

[illegible]

[illegible] certificate [illegible] by [illegible] right [illegible]. [illegible] not the facts in [illegible] admission [illegible] of the Cherokee Tribe, [illegible] conclusive acts upon the part of the Cherokee Nation [illegible] indicated by the issue of a certificate of citizenship by any Commission which has ever acted upon the part of the Cherokee

24. P. [illegible]

Nation?

[illegible] to the [illegible] Nation under the treaty [illegible] of the Delawares, [illegible] also [illegible] agreement. The Supreme Court of the United States, in case of the [illegible] vs. [illegible], a case wherein the rights of the [illegible] were in controversy, [illegible]

> "[illegible] the [illegible] of the [illegible] that the [illegible] all [illegible] Cherokee Nation; [illegible] Delawares were to have, [illegible] living Delawares; [illegible] that [illegible] not [illegible] in [illegible] prevent [illegible]."

[illegible] the case of the Cherokee Nation vs. [illegible], a [illegible] the [illegible]

[illegible], the [illegible]:

> "[illegible] determined [illegible] agree [illegible] 1866) [illegible] States, [illegible] the Cherokee [illegible] pro- [illegible] moneys [illegible] treaty [illegible] [illegible] Nation, [illegible] case) [illegible]."

[illegible]

[illegible]

[illegible] follows:

U. S. v. Rogers.

"Should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and to have a widow or widower by the decease of the Cherokee wife or husband; such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or a person having no rights of Cherokee citizenship by blood: in that case all of his or her rights shall cease under provision of this act or will cease."

It is claimed by the representatives of the Cherokee Nation that the applicant is not born, nor "passed out," under the section above quoted, because of the fact that he married a person who is not recognized as a citizen of the Cherokee Nation, and that he thereby forfeited his right to citizenship. The section above quoted providing for the "passing out" of citizens by "marrying out" applies only to persons who are citizens in." The applicant may be of white, or she may be of African blood, but she was never a citizen of the Cherokee Nation by intermarriage. She does not stand in the attitude of a person who became a citizen under the Cherokee law above referred to, and the action of the Cherokee law which [illegible] [illegible] [illegible] citizen.

The applicant right to become a citizen of the Cherokee Nation by marriage, she can not lose her rights in any other manner than [illegible] Cherokee. She could not lose her rights by marrying a non-citizen any more than a full blood Cherokee could.

[illegible] consideration the denial of [illegible] upon the roll as a citizen.

[illegible] to section 108, [illegible], of Laws of the Cherokee Nation, 1892, which provides that even a white person [illegible] the Cherokee Nation, was upon the death of husband or wife a non-citizen, but [illegible] the forfeiture of [illegible] rights declared after a thorough investigation by the circuit courts of the Cherokee Nation before me, or one, [illegible] [illegible] and their rights.

We respectfully submit that the applicant is entitled to enrollment.

Attorneys for Applicant.

[illegible] 698.

"Should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or a person having no rights of Cherokee citizenship by blood; in that case all of his or her rights acquired under the provisions of this act shall cease."

It is alleged by the representatives of the Cherokee Nation that [illegible] "[illegible] out," under the section they [illegible], [illegible] the fact that [illegible] person [illegible] not recognized as a citizen of the Cherokee Nation, [illegible] citizenship. The section above quoted providing [illegible] citizenship [illegible] persons [illegible] may be of white, or [illegible] may be of [illegible], [illegible] a citizen of the Cherokee Nation by [illegible]. [illegible] in the attitude of a person who [illegible] Cherokee law above referred to, [illegible] the [illegible] of the Cherokee law above quoted is not in the least applicable [illegible].

[illegible] of the Cherokee Nation [illegible] rights [illegible] other [illegible] than [illegible]. [illegible] not lose her rights by marrying [illegible] Cherokee [illegible].

[illegible] the denial of [illegible] roll as [illegible].

[illegible] Laws [illegible] that [illegible] person [illegible] of [illegible].

[illegible] enroll-[illegible].

Attorney's for Applicant.

Cherokee Doubtful

No 348

Harrett Ross

Brief.

Mullette Smith

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-348

Muskogee, Indian Territory, March 24, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 20, 1903, granting the application of Harriet Ross for the enrollment of herself as an adopted Shawnee citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman.

Enc. M-63

7 — 10348

IN THE MATTER OF THE APPLICATION

Harriett Ross

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 19, 1900
B - Mem° of application - " 19. 1900
C - additional testimony - " 20. 1900
D - " " - " 24. 1900
E - " " - " 24. 1900
F - Receipt for testimony.

Supplementary testimony 10/21/01

Notice of final consideration
Order closing testimony, Feb. 25, 1902
Brief of attorney
Jacket

Cher D 349

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 18th, 1900.

IN THE MATTER OF THE APPLICATION OF NELLIE RAPIER AND GEORGE W. RAPIER FOR THE ENROLLMENT OF THEMSELVES AND THE CHILDREN OF SAID NELLIE RAPIER BY HER HUSBAND, SMITH AND ONE CHILD OF SAID GEORGE W. RAPIER BY A FORMER WIFE/

Said Nellie Rapier, being sworn and examined by Commissioner T. B. Needles, testified as follows:
(Examination conducted through interpreter.)

Q What is her name? A She says Nellie Rapier.
Q What is her age? A She says forty eight years old.
Q What is her postoffice? A Saline.
Q What district does she live in? A Saline.
Q Is she a full blood? A Yes, sir.
Q Who does she want to enroll? A Herself and some children.
Q What was her father's name? A Nickwoe Thompson.
Q Is he living? A No, sir; he is dead.
Q What is the name of her mother? A Walaie.
Q What are the names of these children? A Benajamin Smith.
Q How old is Benjamin? A Seventeen.
Q What is the name of the next one? A Samuel Smith.
Q How old is Samuel? A Twelve years old.
Q What is the name of the next one? A Joseph Smith.
Q How old is Joseph? A Ten.
Q Well, what is the next one? A That is all.
Q Are they all alive and living with her? A Yes, sir.
Q What is the name of her husband? A She says her husband is here.

George W. Rapier, being called and sworn by the Commissioner, testified as follows:
Q What is your full name? A George W. Rapier.
Q What is your age? A About fifty-seven.
Q What is your post office? A Kansas.
Q Are you a white man? A No, sir.
Q What district do you live in? A Saline.
Q Are you a Cherokee citizen by blood? A Yes, sir.
Q What degree of blood? A I guess about three fourths.
Q What is the name of your father? A Ely Rapier.
Q What is the name of your mother? A Susie Rapier.
Q Do you desire to enroll anybody but yourself and your wife and her children? Have you got any children by this woman?
A No, sir; not by this woman. I have some though.
Q Do you want to enroll them? A One is under age. Yes, sir; I want to enroll them.
Q What was your wife's name? A Jane Nolan.
Q Was she a white woman? A Yes, sir.
Q Is she living? No, sir.
Q Have you any certificate of marriage with her? A No, sir/
Q Have you any proof of marriage that you can make here?
A No, sir; I guess not.
Q Who married you? A Ely Butler.
Q Is he living? A No, sir.
Q When did he marry you? A In 1865 or '67, somewhere along there.
Q Was your wife on the roll of 1880? A Yes, sir.

Q Well, all right. What is the child's name which is under age? A Joseph Rapier.

Q How old is Joseph? A He is going on seventeen, I believe, --right at seventeen.

Q Is this child alive and living with you? A No, sir. He is not living with me, he is alive though.

Q Do you know these children your wife wants to enroll?-- Benjamin, Samuel and Joseph? A Yes, sir.

Q Are they alive and living with her? A Yes, sir; they are living with her.

Q When did you marry her? A 1894.

Q What was her name in 1880, your wife's name? A Thompson. Nellie Smith was really her married name in 1880, I think.

1880 Roll, page 662, No. 1003, Nellie Smith, Saline District.

Q Is your name on the roll of 1880? A I don't think it is there. No, sir; I think I was down in Texas. It may have been but, I don't know.

Q Is your wife's name on the roll of 1880? A Yes, sir; as Jane ~~XXXXXX~~.Bolan.

1896 Roll, page 1027, No. 1372, Nellie Thompson, Saline District.
1896 Roll, page 1021, No. 1203, Ben Smith, Saline District.
1896 Roll, page 1021, No. 1204, Sam Smith, Saline District.
1896 Roll, page 1021, No. 1205, Joe Smith, Saline District.
1896 Roll, page 524, No. 2637, George Rapier, Delaware District.
1896 Roll, page, page 524, No. 2638, Joe Rapier, Delaware District.

Q Is Jane the mother of Joe? A Yes, sir. Jane was my first wife; she is dead now.

Q What is this woman's name? A Rapier.

Q Were these children of hers named Smith? A Yes, sir. Her maiden name was Thompson.

Q Was Jane Rapier married to any one besides you? No, sir. I was her first husband.

Q Her maiden name was Bolan? A Yes, sir; Jane Bolan.

Q What was her father's name? A Gilbert Bolan

Q Did he die before 1880? A Yes, sir.

Q Did her mother die before 1880 A Yes, sir.

1880 Roll, page 302, No. 2097, Sarah Jane ~~XXXXXX~~.Raper, Delaware District.

Q Is Joe Rapier the son of Jane Raper? A Yes, sir.

THE COMMISSIONER: The name of Nellie Rapier is found upon the Authenticated Roll of 1880 as Nellie Smith, the name of her first husband, and also found upon the Census Roll of 1896 as Nellie Thompson. The names of her children Benjamin, Samuel and Joseph, are found on the roll of 1896 as Ben, Sam and Joe Smith. The name of her husband, George W. Rapier, is found upon the Census Roll of 1896. He avers that he is a Cherokee Indian by blood, but his name cannot be found upon the Authenticated Roll of 1880. He avers that he has a son named Joseph Rapier by Jane Bolan, a Cherokee by blood, who was his first wife, and the name of Jane Bolan is found upon the Authenticated Roll of 1880 as Sarah Jane Raper.

All being identified according to the page and number of the

roll as indicated in the testimony, and having made satisfactory proof as to their residence, the said Ellie Napier and her children Benjamin, Samuel and Joseph, and the said Joseph Napier, will be duly listed for enrollment by this Commission as Cherokee citizens by blood.

Final judgment as to the application of the said George W. Napier will be suspended because of the lack of proof as to his citizenship, and his name will be placed upon a doubtful card. His name is found upon the census roll of 1896, and also upon the roll of 1894.

The undersigned being duly sworn, states that he as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and other proceedings in the above application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

M. O. Milsbee

Subscribed and sworn to before me this 29th day of September A. D. 1900

Commissioner.

D 349

S U P P L E M E N T A L T E S T I M O N Y .

D. #349.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., FEBRUARY 26th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of George W. Raper as a citizen of the Cherokee Nation:

THOMAS J. McGHEE being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Thomas J. McGhee.
Q What is your age? A 56.
Q What is your post office? A Miama.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q Do you know George W. Raper? A Yes, sir.
Q What relation is he to you? A He is my nephew.
Q Now, what you know about his citizenship, any statement d you desire to make,? Well, I wanted to make a statement that he was born and raised in Delaware district and lived there all the time excepting during t he war, we was all out during the war, and some time in 1880, he moved out with his family and went down in the Choctaw Nation to see his sister and that is how come him not to be on the roll of 1880, he never moved his effects, or had taken his effects out, his family remained at home.
Q Well, when did he come back from the Choctaw Nation? A I don't know; I don't think he was down there but a little while; I can't say just exactly how long he was down there.
Q You say he has been living in the Cherokee Nation continuously since 1880? A Yes, sir.
Q What was his father's name? A Raper.
Q His given name? A Well his father, I could not swear to his given name, I was small when he died; he died when George Raper was a baby.
Q Was his father a white man? A No, sir, Cherokee I am tolld.
Q What was his mother,s name? A Susie
Q Was she a Cherokee by blood? A Yes, sir.
Q And george was born in the Cherokee Nation? A Yes, sir.
Q Raised here? A Yes, sir; born and raised in the Cherokee Nation, except a little time in 1880, he was visiting his sister in the Choctaw Nation.
Q You say he is a nephew of yours? A Yes, sir.
Q Is he a son ofyour sister? A Yes, sir, son of my sister.
Q Is your father a white man? A Yes, sir.
Q What degree of blood had your sister? A Well, her father and mother both were Cherokees; she was my half sister.
Q Half sister? A Yes, sir, same mother, her father had the name of Downing.
Q Have you alwas lived in the Cherokee Nation yourself? A Yes, sir, born and raised in the Cherokee Nation.
Q Recognized citizen? A Yes, sir.

By W. W. Hastings, Cherokee Representative:

Q Where did this George Raper live just after 1880? A He lived up there close to Roland's Ferry.
Q [redacted]
Q Delaware district? A Yes, sir, some three or four miles east of the ferry.

--ooo000ooo---

Supl.D.#349.--2.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 26th day of February, 1901.

Commissioner.

D 349

D. 340.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

In the matter of the application of George W. Raper for the enrollment of himself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 6th that his case would be taken up for final consideration by the Commission on the 26th day of February, 1902. He this day appears in person.

GEORGE W. RAPER, the applicant, being duly sworn, testified as follows:

COMMISSION: What is your name? A Raper, George Washington.
Q How old are you? A 57 years.
Q What is your postoffice address? A Kansas.
Q You are an applicant before the Commission for enrollment? A Yes Sir?
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes, sir.
Q Do you desire to make any further statement relative to your enrollment? A No, sir.
Q You submit the case to the Commission for final consideration? A Yes, sir.

The applicant and the representative of the Cherokee Nation present submit this case to the Commission. The same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 26th day of February, 1902.

[signature]

CHEROKEE D 349

George W Raper

MAR 8 1905 Canceled and record transferred

Cher D 350

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 19th, 1900.

IN THE MATTER OF THE APPLICATION OF Samuel Real Dawson, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q Give me your full name please? A Samuel Real Dawson.
Q How old are you? A Some wheres in the sixties.
Q What is your Postoffice? A Afton.
Q What District do you live in? Delaware.
Q Now Mr. Dawson, who is it you want to have put on the roll; yourself? A Myself, wife and two minor children.
Q Do you apply for yourself as a Cherokee by blood? Yes sir.
Q What proportion of Cherokee blood do you claim? A I suppose about one eighth.
Q Do you apply for your wife as a Cherokee by blood? A No sir.
Q She is a white woman? A Yes sir.
Q How long have you lived in the Cherokee Nation?
A About fifteen years.
Q Are you an admitted citizen? A Yes sir.
Q Let me see your certificate of admission? (Applicant hands paper to Commissioner)
Q What is the "R" in your name for? A Real.
The applicant presents a certificate, signed by W. H. Mayes, Assistant Executive Secretary of the Cherokee Nation, under the seal of the Nation, stating that on the 11th day of January, 1883, before the Commission or Court, known as the Tahee Court, admitting to all the rights and privileges of citizenship in the Cherokee Nation, by virtue of their Cherokee blood, sundry persons, and among them appears the name of Real Dawson.
Q That is your name, is it? A Yes sir.
This is recognized as official evidence of the facts stated, and the paper is returned to the applicant.
Q Have you lived in the Cherokee Nation ever since you were admitted in 1883? A Not ever since; after I was admitted, as soon as I could come.
Q How soon did you come? A Some time in May, I think 1886.
Q Have you lived here ever since May, 1886? A Yes sir.
Q Now give me your wife's name? A Catherine Dawson.
Q How old is she? A Fifty five.
Q When were you married to her? A In 1867.
Q Was she admitted with you, at the same time you were?
A No sir; she was not admitted.
Q She is not in that certificate? A No sir.
Were you remarried to her according to Cherokee law? A No sir.
Q You have been married to her only in accordance with United States law? A Yes sir.
Q Have you lived with her ever since you came to the Cherokee Nation? A Yes sir.
Q Now give me the name of your children; these two children?
A August Dawson.
Q How old is that child? A Fourteen years old.
Q What is the name of the next one? A Kate Dawson.
Q How old is that child? A Twelve years old.
Q Are these children both living now? A Yes sir.
Q What District were you in in 1896? A Delaware.
(1896 Roll, Page 461, #809, Real Dawson, Delaware District)
(1896 Roll, Page 569, #139, Catherine Dawson, Delaware District)
(1896 Roll, Page 461, #812, August Dawson, Delaware District)
(1896 Roll, Page 461, #813, Kate Dawson, Delaware District)
Q Do you want this child's name spelled "KATE"? A Yes sir.

The Cherokee Representatives present, desire that their application

of these parties be held up, in order that the Cherokee Nation may present evidence that the admission of the parties by the Tahlee Court was fraudulent.

The applicant presents an official copy of his marriage certificate, showing his lawful marriage to his wife, in 1886: This is filed herewith.

The applicant applies for the enrollment of himself, wife and two children. He is shown by the evidence cited in the testimony to have been admitted to Cherokee citizenship by the Tahlee Court or Commission in 1883: He has lived in the Cherokee Nation ever since he moved here in 1886, and he is identified on the roll of 1896 as a Native Cherokee. In view of the request of the Cherokee Representatives, his application will at this time be placed upon a doubtful card: His two children, August and Nate are identified with their parents on the roll of 1896. They are living at this time, and they will be listed upon a Doubtful Card as Cherokees by blood/ for the reason given above.

In regard to the application for the wife of the applicant, she was not admitted by the Cherokee Commission with her husband, or at any other time: Her only identification is upon the roll of 1896. Her husband states that they were never remarried in accordance with Cherokee law. She has lived with her husband ever since he moved to the Cherokee Nation, but in view of their not having been married according to Cherokee law, her application will at present be placed upon a Doubtful Card.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

A P Crauthers

Subscribed and sworn to before me this 21st day of September, 1900.

C M Rusin

COMMISSIONER.

D 350

[illegible] CHAIRMAN.

(DAWSON CASE)
Cherokee D-350.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 3, 1902.

In the matter of the application of Samuel R. Dawson for the enrollment of himself and children, August and Mate Dawson, as citizens by blood, and for the enrollment of his wife, Catherine Dawson, as a citizen by intermarriage of the Cherokee Nation.

Albert H. Dawson, being sworn and examined by the Commission, testified as follows:

Q What is your name? A Albert H. Dawson.
Q What is your postoffice? A Arton.
Q You are a citizen of the Cherokee Nation by blood are you? A Yes sir.
Q Are you acquainted with Samuel R. Dawson? A Yes sir, my father.
Q He is a citizen by blood is he? A Yes sir.
Q Are you acquainted with his wife, Catherine Dawson? A Yes sir, she is my mother.
Q She claims as an intermarried citizen does she? A Yes sir.
Q How long have you known Samuel R. Dawson and his wife Catherine?
A All my life.
Q You don't know when your mother and father were married do you?
A No sir, I do not.
Q Has Catherine Dawson and Samuel R. Dawson lived together as husband and wife ever since you were old enough to remember up until the present time? A Yes sir.
Q Were they living together on the first day of September, 1902? A Yes sir.
Q Did they ever separate? A No sir.
Q How long has your mother lived in the Cherokee Nation? A About sixteen years.
Q All the time for the last 16 years? A Yes sir.
Q And your father has lived here for the same length of time? A Yes sir.
Q Are these two children, August and Mate, your brothers, and the children of Catherine and Samuel R. Dawson? A Yes sir.
Q Are they both living now? A Yes sir.
Q Have they lived in the Cherokee Nation ever since their birth up until the present time? A One was born in California, August was. He was two years old when they come here.
Q He has lived there ever since he was two years old, somewhere along there.
Q And the other child has lived there ever since it was born? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 18th day of October, 1902.

B. C. Jones
Notary Public.

CHEROKEE. D359

Catherine ~~Samuel~~ R. Dawson et al

OCT 12 1907 Cancelled and transferred to the roll of Freedmen

Opinion on Cos 1, 2 & 4 transferred to Comptroller Ga 10-16-34

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

Dec 11 1904

Cher D 351

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 19th, 1900.

IN THE MATTER OF THE APPLICATION OF Charley W. Berger, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Charley W. Berger.
Q How old are you? A Twenty eight.
Q What is your Postoffice? A Fall.
Q What district do you live in? A Cooweescoowee.
Q For whom do you apply for enrollment? A Myself, wife and three children.
Q Do you apply for yourself as a Cherokee by blood? A Yes sir.
Q What proportion of Cherokee blood? A One sixteenth.
Q Do you apply for your wife as a Cherokee by blood? A No sir.
Q What is your wife, is she? A Yes sir.
Q How long have you lived in the Cherokee nation? A Eight years.
Q Are you a Cherokee citizen? A Yes sir.
Q How did you get to be a citizen? Were you by the Cherokee Commission? A Yes sir.
The applicant presents what purports to be a copy of an Act passed by the Cherokee Council, showing the admission of certain persons to citizenship, November 17th, 1886, and among them appears the name of Charles Berger.
Q Is that your name? A Yes sir.
This is accepted as evidence of the facts stated, and is returned to the applicant. It should be added that the act subsequently became a law, as it has not the signature of the Chief, or any statement to the effect of its having become a law.
Q You claim to have been born in Georgia fourteen years ago, and you came here eight years ago? A Yes sir.
Q Have you lived in Georgia since you came here eight years ago? A Yes sir.
Q Give the name of your father? A William Berger.
Q White man or Cherokee? A White man.
Q Dead or living? A Dead.
Q The name of your mother? A Caroline.
Q Cherokee or white woman? A Cherokee.
Q Dead or living? A Living.
Q Give the your wifes name? A Annie Bell Berger.
Q How old is she? A Twenty. Yes.
Q When did you marry her? A In 1898.
Q Have you a certificate of marriage? A Yes sir.
The applicant presents a certificate, showing that he and Rosa A. Stall were united in marriage at Collinsville, Indian Territory, October, 4th, 1898, by John Shaffer, Probate Judge: This is filed herewith.
Q Have you and your wife lived together ever since your marriage? A Yes sir.
Q Give the name of your three children please? A Annie Caroline.
Q How old is that child? A Eleven years old.
Q The next child, please? A Daniel Berger.
Q How old is he? A Four.
Q Is he on the roll of 1896? A Yes sir.
Q The next child? A Lillie May.
Q How old is that child? A Born August, 1899.
Q These children are all living now, are they? A Yes sir.
(1896 Roll, Page 114, No. 430, Charley Berger, Cooweescoowee D'st)
(1896 Roll, Page 114, No. 431, Rosa Berger, Cooweescoowee D'st)
(1896 Roll, Page 114, No. 432, Annie Berger, Cooweescoowee D'st)
(1896 Roll, Page 114, No. 433, Daniel Berger, Cooweescoowee D'st)

The applicant applies for the enrollment of himself, his wife and three children. He is identified on the roll of 1896, as a Native Cherokee, and presents what purports to be a copy of an Act of the Cherokee Council, admitting himself and others to citizenship November 17th, 1886: This evidence is of a doubtful character, as stated in the testimony. The applicant has lived in the Cherokee Nation for eight years, and his application at this time will be placed on a "Doubtful Card".

His wife is shown to have been married to him in 1893: They have lived together ever since: She is identified with him on the roll of 1896, and her application will be placed on a "Doubtful Card".

Their two older children, enumerated in the testimony, are identified on the roll of 1896: They are living at this time, and the application for their enrollment will be placed on a "Doubtful Card, and without a proper certificate of the birth as filed for the child, Lillie May Barger, it also will be placed upon a "Doubtful Card".

The applicant is desired to supply the Commission with official evidence of the alleged Act of Admission, and at present, the alleged copy of the Act will be filed with his mother's case, for consideration in connection with this and other cases.

The undersigned, being sworn, states that he is a stenographer to the Commission to the Five Civilized Tribes, and correctly recorded the testimony and proceedings in the case, and that the foregoing is a true and complete transcript of the stenographic notes thereof.

R R Cravens

Subscribed and sworn to before me
this 21st day of September, 1900.

C M Bunch

NOTARY PUBLIC.

29 351

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 21 1900

ACTING CHAIRMAN.

D. 351.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 24, 1902.

In the matter of the application of Charles W. Barger for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

Applicant present in person.
Cherokee Nation represented by W. W. Hastings.

COMMISSION: Do you submit this case to the Commission for final consideration?

Applicant: A Yes, sir.

COMMISSION: The applicant and the representative of the Cherokee Nation present submit this case to the Commission for final consideration. The same is ordered closed and reported to the Commission for final decision based upon the evidence now filed.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 26th day of February, 1902.

Commissioner.

2.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 6th, 1902.

In the matter of the application of Charles W. Barger for the enrollment of himself as a citizen by blood of the Cherokee Nation; for the enrollment of his wife, Rosa B. Barger, as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his children, Annie C., Samuel R. and Lillie F. Barger, as citizens by blood of the Cherokee Nation.

Supplemental to D-351.

Applicant appears in person.
Cherokee Nation by J. C. Starr.

CHARLES W. BARGER, being duly sworn, testified as follows,
Examination by the Commission.

Q. What is your name? A. Charlie Wesley Barger.
Q. What is your age? A. 30.
Q. What is your post office? A. Foyel.
Q. What is your wife's name? A. Rosa Bell Barger.
Q. When were you married to her? A. '93.
Q. She is a white woman, is she? A. Yes, sir.
Q. How long have you lived in the Cherokee Nation?
A. About 10 years, it will be this winer, in October--or November, I should say.
Q. Continupusly? A. Yes, sir.
Q. Has your wife lived with you, ever since you were married, in the Cherokee Nation? A. Yes, sir.
Q. She is living now? A. Yes, sir.
Q. Were you ever married before you married this wife?
A. No, sir.
Q. Was she ever married before she married you? A. No, sir.
Q. How many children have you got? A. Three.
Q. Are they all living? A. Yes, sir.
Q. Living with you in the Cherokee Nation? A. Yes, sir.
Q. Dod you file a certificate of your marriage? A. Yes, sir.
Q. How old is your wife? A. 27.

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Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 6th day of November, 1902.

B. C. Jones
Notary Public.

Cherokee D 381

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

In the matter of the application for the enrollment of Charley W. Barger and his minor children Annie Caroline, Samuel Raymond, and Lillie Fay Barger, as citizens by blood, and for his wife Rosa Bell Barger, as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 19, 1900, Charley W. Barger appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his minor children Annie Caroline, Samuel Raymond and Lillie Fay Barger, as citizens by blood, and for his wife Rosa Bell Barger, as a citizen by intermarriage of the Cherokee Nation.

The evidence shows that Charley W. Barger was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation on November 21, 1886. He was married to his wife, the applicant in this case, on the 4th day of October, 1893. As a result of that marriage, the children hereinbefore named were born. Charley W. Barger has lived continuously in the Cherokee Nation since 1892 up to and including the date of this application. His wife has lived continuously therein since their marriage. All of the applicants, with the exception of Lillie Fay Barger, are identified on the Cherokee Census Roll of 1896. Said Lillie Fay Barger is identified by a certificate of birth filed herewith.

It is, therefore, the opinion of this Commission that Charley W. Barger and his minor children Annie Caroline, Samuel Raymond, and Lillie Fay Barger, should be enrolled as citizens by blood, and that his wife Rosa Bell Barger, should be enrolled as a citizen by intermarriage of the Cherokee Nation in accordance with the provisions of Section twenty one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this AUG 18 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 352.

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, August 18, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 18, 1902, granting the application of Charley W. Barger for the enrollment of himself and his children, Annie, Caroline, Samuel Raymond and Lillie Fay Barger, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Rosa Bell Barger, as a citizen by intermarriage of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 11.

IN THE MATTER OF THE APPLICATION OF

Johnson W. Barger et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony September 19. 1900
B. Name of affiliation " 19. 1900
C. Marriage Certificate
D. Birth affidavit Lillie F. Barger
E. Notice of final consideration
F. Order closing testimony Feb. 24, 1902

Transferred to Kes No 1835

See Cherokee Initial 2325

Cher D 352

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T. September 19, 1900.

In the matter of the application of Robert Dawson for the enrollment of himself as a Cherokee citizen; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Robert Dawson.
Q What is your age? A Twenty-three.
Q What is your post-office address? A Afton.
Q What is your district? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation by blood?
A Yes sir.
Q What degree of blood do you claim? A One-sixteenth.
Q For what do you apply for enrollment? A Just myself.
Q What is the name of your father? A Rieal Dawson.
Q Is he living? A Yes sir.
Q Name of your mother? A Catharine.
Q Is she living? A Yes sir.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q Never lived out of it? A No sir, just off and on; my residence has always been in the Cherokee Nation.
Q Where do you live now? A I work in the Creek Nation.
Q Are you in business in the Creek Nation? A Yes sir, clerk.
Q How long have you been living in the Creek Nation? A Not quite one year.
Q All your life have you lived in the Cherokee Nation? A Yes sir.
Q Were you born in the Cherokee Nation? A No sir, born in California.
Q Is your name upon the national roll of 1880?
A 1896.
Q Not on the roll of 1880? A No sir.
Q Your mother's name on the roll of 1880? A I think so.
1896 roll page 461 4910 Robert Dawson Delaware District;
1880 roll not found for application; other, and name not found;
1896 roll [illegible] for application [illegible]; page 461 4909 Rieal Dawson, Delaware District;
1880 roll page 90 [illegible] Dawson, Delaware District.

Examined by Cherokee Department, Five C. T. Testimony:
Q Was your father a full blood Cherokee? A Yes sir. (Witness points to [illegible])
Clerk's Decision: You present a certificate of citizenship from the executive office of the Cherokee Nation under date of 18th day of [illegible], 1899, signed by Principal Executive Officer, and by the Council of the Cherokee Nation, certificate dated on the 11th day of January 1900 that Robert Dawson was admitted to citizenship as a Cherokee citizen by blood; is the Rieal Dawson named in that certificate your father? A Yes sir.
Q Just your father and mother? A Yes sir.
Q What year were you born? A [illegible] 1877.
Q Have you ever [illegible] A No sir.

Clerk's Decision: The name of Robert Dawson appears upon the Cherokee roll of 1896; he presents a certificate of citizenship described in the testimony, which shows his father, Rieal Dawson, to be a citizen by blood on the 11th day of January 1900; applicant swears that he was born in the year 1877, before the adoption of his father; he presents no proof as to his own citizenship, nor does his name appear in the certificate presented; consequently, and from all to the enrollment of this Robert Dawson will be a doubtful case; his name will be placed upon a doubtful card.

[illegible] to the [illegible] recorded the testimony [illegible]

[illegible] (1900).

[illegible]

Commissioner.

NOTICE!

IN THE MATTER OF the application of Robert Dawson et al for enrollment as Cherokee citizens:

Case No. D 352 Afton, I T

To Robert Dawson et al

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on March, 17, 1902. at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this March, 10, 1902.

W. W. Hastings

Attorneys for the Cherokee Nation.

D. 352

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the

.....day of .....A. D. 190....

Given under my hand this..... .....

day of.....A. D. 190....

.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the

..... day of....., 190....

.....

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the.....day of..... A. D. 190....

.....

Subscribed and sworn to before me this .....

.....

Notary Public.

Registered Letter / Parcel No. 3516 Post Office, Muskogee, Ind. Ter.

MAR 10 1902

Received 190 from J C Starr

addressed Robt Dawson Atlin Ia

Houston T. Estes, P. M.

P. M., per

This space is reserved on counterpart for particulars connected with dispatch of registered piece.

1788

CJ 35-2

CHEROKEE. D 352

Robert Dawson.

Cancelled and transferred to Cherokee No 10735

COPY OF TESTIMONY FILED WITH THE CHEROKEE NATION.

See R 324

Cher D 353

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 19, 1900.

In the matter of the application of William Thomas Sayers for enrollment as a Cherokee by blood; being sworn and examined before Commissioner, he testified as follows:

Q What is your full name? A William Thomas Sayers.
Q How old are you? A 41.
Q What is your post office? A Adair.
Q In what district do you live? A Delaware.
Q Who do you wish to have put on the roll? A Myself.
Q Just yourself? A Yes, sir.
Q Do you claim to be a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A About 1/16.
Q How long have you lived in the Cherokee Nation? A 15 years.
Q Were you admitted to citizenship by the Cherokee Commission or Council? A By the Commission.
(Applicant presents what purports to be an official copy of the Cherokee Commission on Citizenship decision, dated on September 19, 1894, William T. Sayers.)
Q That is your name, is it? A Yes, sir.
Q You did come to the person admitted at that time? A Yes, sir.
(This copy of minutes by John L. Adair, Clerk of the Commission, but is without the official seal, and the applicant is desired to procure an item copy certified in proper form.)
Q How have you lived in the Cherokee Nation ever since you were admitted to citizenship? A Yes, sir.
Q Give the name of your father? A Abner Sayers.
Q Your father is dead or alive? A Dead.
Q Your father, how long lived here? A Just [illegible].
Q How long did he live? A [illegible].
Q When did your father die? A In 1874.
Q Where did your father die? A In Lee I [illegible].
Q Was your father a Delaware Indian? A Yes, sir.
(In 1896 roll, [illegible], No. 2734, William T. Sayers, Delaware district.)

The applicant presents a copy of the record showing his admission to citizenship by the Cherokee Commission September 19, 1894, but has it to put in the roll form. He is identified on the roll of 1896. He desires to supply the Commission with another copy certified under the seal of the Nation, and at present his application will be held until a certification, and he has filed a recorded card to submit more accurate evidence of his admission. He has lived in the Cherokee Nation over a year his residence in 1894.

Bruce G. Jones, being duly sworn, testified as a witness to the Commission to the following effect: He is acquainted with the proper times and testimony in the above case, and knows the time and complete [illegible] of his entry [illegible].

Bruce G. Jones

Sworn to and subscribed before me this the 19th of September, 1900.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 25, 1900.

D. 753.

In the matter of the application of Thomas William [illegible] to be enrolled as a Cherokee citizen.

Additional testimony.

William Oliver Sayers, being sworn and examined by Commissioner Kennedy, testified as follows:

Q. What is your full name? A. William Oliver Sayers.

Q. How old are you? A. 41.

Q. Where do you live? A. Adair.

Q. You want to give supplementary testimony in your former application, do you? A. Yes, sir.

Q. You want to show that you were admitted to citizenship? A. Yes, sir.

(Here was filed a certified copy of the proceeding of the officers of the Cherokee Nation on citizenship, showing that petition was filed September [illegible], 1884, and that on the last day of January petitioner was admitted to citizenship by the Cherokee Council, the name being William W. Sayers. This is recognized as an [illegible] in the Sayers family. As the [illegible] people, it is unknown to the applicant.)

[illegible], after fully sworn, says that [illegible] to the [illegible] to the Five Civilized Tribes has correctly recorded the proceedings and testimony in the above case, and that the ruling is a true one upon the merits of the case as shown by the record.

Bruce G. Jones

[illegible] this the [illegible] day of [illegible], 1900.

[illegible]

[illegible].

D353

D. 353.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of William T. Sayers for the enrollment of himself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 8th that his case would be taken up for final consideration by the Commission on the 25th day of February, 1902, and that he could on said day appear before the Commission and introduce any further testimony affecting his case. Receipt has been acknowledged of the Commission's letter. The applicant called three times and fails to respond either in person or by attorney and the case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

0353

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAR 12 1902

Cherokee D 322

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Thomas Sayers as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 19, 1900, William Thomas Sayers appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation.

At the conclusion of the testimony offered at that time William Thomas Sayers was listed upon a "Doubtful" card to await more accurate evidence of his admission, which evidence has been furnished the Commission. Thereafter, on September 25, 1900, at Vinita, Indian Territory, further proceedings were had in the matter of this application.

The evidence in this case shows that he was readmitted to citizenship in the Cherokee Nation on the 16th day of September, 1884. He is identified on the Cherokee Census Roll of 1884, and has lived continuously in the Cherokee Nation since the date of his readmission, hereinbefore shown, up to and including the date of this application.

The authority of the Commission herein is defined in Par. 1, Sec. 21, of the Act of Congress, June 28, 1898. (30 Stats., 495).

It is the opinion of this Commission that William Thomas Sayers is lawfully entitled to be enrolled as a citizen by blood of the Cherokee Tribe of Indians in Indian Territory, and that the

application for his enrollment as such should be granted, and it is therefore so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this SEP 20 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 353.

Muskogee, Indian Territory, September 30, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

Enclosed herewith please find a copy of the decision of the Commission to the Five Civilized Tribes, rendered September 20, 1902, granting the application of William Thomas Sayers for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against the decision rendered in this case. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. C. No. 81.

IR

No. 353

IN THE MATTER OF THE APPLICATION OF

William T. Sayers

FOR ENROLLMENT AS

CHEROKEE CITIZEN

A. Original testimony September 19, 1900
B. Mem. of application " 19, 1900
C. Additional testimony Oct. 1900
D. Notice of final consideration
E. Transcript of testimony
F. Order closing testimony Feb. 28, 1902

Cher D 354

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 16, 1896.

In the matter of the application of Joseph Hines for the enrollment of himself and three children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Joseph Hines.
Q How old are you? A Forty-nine.
Q What is your post-office? A Pensacola, Indian Territory.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir, I have been.
Q By blood or intermarriage? A Intermarriage.
Q For whom do you apply for enrollment? A Three Cherokee children.
Q Do you apply for yourself? A If I am entitled to enrollment of course.
Q What was the name of your wife before you married her? A She was a Ragsdale, her maiden name.
Com'r Needles: Applicant presents marriage license under the seal of the Cherokee Nation issued by the constituted authorities of the nation, an marriage certificate certifying that he was married to one Cynthia Neighbors, a Cherokee citizen by blood, on the 17th day of February 1886.
Q Is your wife living? A No sir.
Q When did she die? A 1895.
Q Are you married now? A I don't consider I am.
Q It is very easy to answer yes or no? A I have been married, but it is illegal.
Q How do you know it is illegal? A Because there is a case in court against the lady.
Q Is she a white woman? A I don't know that; she testified Monday here that she was part Osage.

Examined by Cherokee Attorney W.W.Hutchings:

Q You are suing your present wife for a divorce? A No sir.
Q You say there is a case in court against her? A No sir, her husband Joe Gilderbrand is suing her for living without a divorce.
Q You married her when she was Joe Gilderbrand's legal wife? A I don't know.
Q You were married to her? A I didn't marry her under the name of Joe Gilderbrand.
Q Com'r Needles: You mean you didn't marry Joe? A No, I didn't marry her under the name of Joe Gilderbrand.
Hutchings:
Q You were married to this woman you speak of? A Married, but it is not legal.
Q Answer the question, you were married to her were you? A Yes, I was married to her.
Q She had a living husband at that time? A I ~~dddd~~ didn't know it positively.
Q You know it now don't you? A Yes sir.

Examined by Cherokee Representative W.W.Hastings:

Q You know she is a white woman? A No sir, not positively.
Q Is she a recognized Cherokee citizen by blood? A I don't know that.

By Com'r Needles:

Q Have you got any children? A Yes sir.
Q By your first wife? A Yes sir.
Q What was your first wife's name? A Cynthia Neighbors.
Q She is not living? A No sir.

Q What are the names of your children? A Roxianna Hines, she is thirteen yearsold.
Q What is the name of the next one? A Joseph, eleven years old
Q Next one? A Mary Beatrice, she is seven.
Q What is the name of the next one? A That's all.
Q Are these children all alive and living with you at this time?
A Yes sir.
Q And your Indian wife is dead? A Yes sir
1896 roll page 1281 #199 Joseph Hines, Tahlequah District;
1896 roll page 1183 #1448 Roxanna Hines, Tahlequah "
1896 roll page 1183 #1449 Joseph Hines, Tahlequah "
1896 roll page 1183 #1450 Mary Hines, Tahlequah "
Q What was your wife's name in 1880? A Neighbors.
1880 roll for wife page 292 #1864 Cynthia Neighbors, Delaware Dist.

Examined by Cherokee Representative W.W.Hastings:

Q When did you marry this last woman? A About a year ago I believe.
Q Have you been living with her since? A Not all the time, not here lately, and not after I found out she was never divorced from Hilderbrand. She rented my house out and really I can prove that I couldn't get shelter, and I have got three children there.
Q How long did you live with her as your wife? A I don't know for certain.
Q About how long? A I couldn't say for positive.
Q Six months? A No, after I found out---
Q How long did you live with her? A No, at the time that we was-- after -- there was a bill brought against her.
Q Did you live with her as your wife? A We agreed we would quit here sometime before April, I will be honest with you; we agreed that we would play quits, and I wanted a helter.
Q When did you marry her? A Sometime in September I believe.
Q The September before April? A Yes sir.
Q Then you lived with her for seven months? A Yes sir.
Q Married by a preacher? A No sir.
Q Who were you married by? A The clerk.
Q United States Clerk here? A Yes sir.

By Co'r Hastings:

Q Have you got a certificate of marriage? A (Produces paper) That's the reason I didn't marry her under Hilderbrand.
Co'r Hastings: The applicant presents certificate of marriage and license issued by the clerk of the United States court, certificate of marriage certifies that he was married to one Mrs. Cynthia, O'Fields on the 15th day of September 1888.
Q What was her former husband's name? A Her name and before you married her? Hilderbrand? A I don't know anything about Hilderbrand; I didn't know whether she was ever married to him.
Q You have found out since? A Yes sir.
Q Well you knew her name was Hilderbrand before you married her don't you? A I don't know.
Q As I understand you you lived with this woman until you found out she hadn't been divorced from her former husband, and then you left her? A We decided that that marriage wasn't legal; I as like the balance, sometimes fellows gets his leg broke by going somewhere where he has got no business; I will be honest.
Q You found out your marriage wasn't legal and then you quit?
A Yes sir, I told her it wasn't. ~~and the [illegible]~~
Q And she acknowledged it wasn't legal? A Yes sir, she acknowledged here the other day that we quit; that's sufficient I thought.
Q You never asked her about it before you married her; you didn't ask her before you married her whether she had been married again?
A No sir.

Joseph Hines et al # 43

Com'r Needles: The name of Joseph Hines appears upon the census roll of 1896,-and the name of his wife, Cynthia Neighbors appears upon the authenticated roll of 1880; he presents satisfactory certificate of his marriage to her, she now beig deceased; the names of his children Rexianna and Joseph and Mary E. are upon the census roll of 1896, they being duly identified as the children of said Cynthia Hines, nee Neighbors; and satisfactory proof has also been made as to their residence; consequently the said Rexianna, Joseph and Mary E. Hines will be duly listed for enrollment by this Commission as Cherokee citizens by blood. Final judgment as to the application of said Joseph Hines for the enrollment of himself as a Cherokee citizen by intermarriage is suspended, and his name will be placed upon a doubtful card.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 21 day of September 1909.

C Mueller

Commissioner.

D 264

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25, 1902.

In the matter of the application of Joseph Hines, for the enrollment of himself as a citizen of the Cherokee Nation:

Appearances:
Applicant present in person;
W W Hastings, for the Cherokee Nation.

JOSEPH HINES, being sworn and examined, testified as follows:

Q What is your name ? A Joe Hines.
Q How old are you ? A I am going on 52.
Q Your post office address ? Pennsylvania.
Q Is that in the Territory ? A Yes sir.
Examined by Mr. Hastings:
Q Are you married now ?
A I don't consider it married when the woman was indicted.
Q Are you married now ? A No, I call my marriage null and void.
Q Are you married now ? A Well you can't call it married when it's null and void.
Q Well, can't you say no ? Are you living with the woman as your wife ? A No sir.
Q Have you been since you presented yourself for enrollment ?
A No sir.
Q You haven't been living with her ? A No sir.
Q You are not living with a woman ? A I am living with my children.
The Commission: Is there any other statement you wish to make ?
A No more than that being as our marriage is not legal as she was indicted; and there is the certificate of the clerk of the court.
Q Do you submit the case to the Commission for final consideration?
A Yes sir.

The applicant and the attorney for the Cherokee Nation submit this case to the Commission for final consideration, and the same is ordered closed, and reported to the Commission for final decision based upon the evidence now on file.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes of the same.

E. C. Bagwell.

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

Cher
Supp'l to D 354

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 22, 1902.

In the matter of the application of JOSEPH HINES, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

JOSEPH HINES, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A Joseph Hines.
Q How old are you ? A Fifty three.
Q What is your post office address ? A Pensacola.
Q Are you a white man ? A Yes sir.
Q Are you claiming the right to be enrolled as a Cherokee citizen by intermarriage ? A Yes sir, if I am entitled.
Q That's your claim ? A Yes sir.
Q What is the name of your wife ? A Cynthia Naves.
Q Is she a Cherokee by blood ? A Yes sir.
Q How long had she been living in the Cherokee Nation when you married her ? A All her life.
Q When were you married to her ? A In 1885, I believe.
Q Were you married to her under a Cherokee marriage license ?
A Yes sir.
Q Was Cynthia Naves your first wife ? A Yes sir.
Q You were never married before you married her ? A No sir.
Q Was she ever married before she married you ?
A Yes sir she was married to Naves.
Q When was she married to Naves ? A I don't know.
Q What was Naves' first name ? A I don't remember.
Q Was he dead when you married her ? A Yes sir.
Q Was he a white man or a Cherokee ? A A white man I have heard her say; I have never seen him.
Q Was that the only time she had ever been married before she married you ? A I think so.
Q Have you and your wife Cynthia been living together ever since you were married ? A No sir, she's been dead since 1895.
Q Did you live with her from the time you married her in 1885 all the time up to the time she died in 1895 ? A Yes sir.
Q Have you married since her death ? A Yes sir. She was already on the 1880 roll.
Q Who are you talking about ? A Old lady O'Fields.
Q Did you marry her ? A Yes sir, Sarah Hilderbrand was her name.
Q When did you marry her ? A I disremember now, but it was a while before the enrollment.
Q That is since the death of your wife Cynthia ? A Yes sir.
Q Is Sarah Hilderbrand enrolled as a Cherokee by blood ?
A I don't know it to be facts, she claimed in her enrollment that she was part Osage. I heard her give the statement that she is part Osage.
Q And part white ? A I suppose so, she didn't say anything about that part.
Q Her name is Sarah Hilderbrand ? A Yes sir. O'Fields was her other name.
Q You weren't married under the name of O'Fields ?
A That was with her.
Q You were married as Joseph Hines ? A Yes sir; but her name was Sarah O'Fields.
Q Who was O'Fields ? A Her first husband.
Q Johnson O'Fields was it ? A Yes sir, that's what she claims.

Q Do you know whether they were ever married ?
A No sir, to be honest, she's lived with so many different men I don't know whether she was ever married to any of them.
Q Did she have any children when she married you ?
A She had one about thirty years old named Thomas Cook.
Q You didn't know Sarah O'Fields or Hilderbrand in 1870 ?
A No sir, I moved up in Tahlequah district.
Q You are living with Sarah now ? A No sir, you see she went back to live with Hilderbrand. She was arrested for this.
Q How long did you live with her ? A Let's see; just to be honest, I know she was indicted before the Commissioner, I think, in March or February.
Q What year ? A I don't remember.
Q What was she indicted for ? A For bigamy.
Q Indicted for marrying you ? A Yes sir.
Q And put under bond ? A The case was brought before the grandjury.
Q Has her case ever been tried ?
A She was acquitted before the grandjury.
Q Acquitted of bigamy ? A Yes sir.
Q Then she never was indicted ? A Yes sir, she was brought before the Commissioner.
Q And he bound her over to the grandjury ? A Yes sir, and I understood the case was acquitted.
Q Did you know whether she had a living husband when she married you ? A No sir, I did not.
Q You say she went back to Hilderbrand ? A Yes sir.
Q What was his name ? A Joe, I believe.
Q Was he her husband ? A So she claimed him afterwards. When she was indicted she claimed that. He lived with her.
Q Was there any marriage ceremony performed between you and Sarah ? A Yes sir, the clerk married us; I will tell the truth.
Q How long have you been living in the Cherokee Nation ?
A Off and on since--well, say I have been living in the Cherokee Nation about seventeen or eighteen years..
Q Making your home there ? A Yes sir.

Examined by J. C. Starr:

Q Where did you procure your license to marry Sarah J. Hilderbrand ?
A At Vinita.
Q From the United States Clerk ? A Yes sir. My recollection is that she was living with me, and the case was acquitted before the grandjury; and she's on the roll at present, and I claim sir that the marriage was legal.
Q Was she married to Hilderbrand ? A Now to be honest, I don't know.
Q I want you to be honest. A She claimed she was.
Q Where was she living with you ? A Up about Barrett something. I have got a copy of it here. I demanded it.
Q Who married her to this man Hilderbrand ?
A I don't know, I have got a copy of his name here; I got it from the United States Clerk, all about who married them.
Q She married a white man ? A Yes sir.
Q She's a white woman ? A She claims Indian blood.
Q Don't you know she is a white woman ? Don't you know she always claimed to be a white woman ? A Just to be honest with you, she always claimed to be Osage.
Q She didn't claim to be a Cherokee by blood ?
A She claimed to be Osage.
Q Answer my question. A No, I didn't hear her claim she was a full-blooded Cherokee, or a part either, just to be honest. That's all I know.

By the Commission:

Q Has she any children by Hilderbrand ? A No sir.
Q Do you know how long she had been living with him before you married her ? A No sir.

J. C. Starr:

Q Where did you live before you came to this country ?
A No.
Q Yes sir. A Well, I railroaded a good deal; I lived in Texas a while.
Q What town ? A Denison.
Q How long did you live in Denison ? A Two or three years.
Q Where were you born ? A In Memphis, Tennessee.
Q Wasn't you married to some woman before you came to the Indian Territory ? A No sir.
Q Never was married before you came to the Cherokee Nation ?
A No sir.
Q You swear that do you ? A Well, we was living together but it wasn't legal.
Q Who was that ? A Papers wasn't filed away and she quit me.
Q Who ? A This first woman. We lived together, I will tell the facts.
Q Who was that ? A A white woman in Arkansas.
Q What town in Arkansas ? A Close to Van Buren.
Q What was her name ? A A Pollie Whemry.
Q How long did you live with her ? A I don't know; no I don't know exactly.
Q About how long ? A I can't tell you.
Q Don't have any idea ? A No.
Q When did you live with her ? When was it that you lived with this woman down there ? A Oh, about 1874 or 5, I think.
Q Well now, where did you live ? A We lived close to Van Buren, I think. I worked there in that tunnel there.
Q Where were you married to this woman at ?
A Well sir, it was just a preacher said the ceremony, and that's the ground she quit on.
Q Did you get a license ? A No sir. That's the grounds she quit on.
Q What is the name of the preacher that said this ceremony ?
A I can't tell you that .
Q Where did he live ? A Down there close to Van Buren.
Q What was his post office ? A Uniontown, I think.
Q You don't know his name ? A No sir.
Q Do you know when he said the ceremony ? A Yes sir.
Q When was it ? A It was in 1875, I think.
Q How long did you live with her after that ?
A Let me see; I don't know, three, or four, or five years. She was off half the time with her folks; now that's just right.
Q What became of this woman ? A She finally married.
Q Married another man ? A Yes sir.
Q Then where did you go after she married ?
A I came to the Nation. Really to be plain she was on the road before she was married.
Q You were really married to a woman in Arkansas before you came to the Cherokee Nation ? A No sir, it wasn't legal.
Q You thought you were married didn't you ?
A No sir, that's the ground that she left on.
Q I want to know what you thought about it ? Didn't you get a preacher and get married to this woman in Arkansas ? A Yes sir.

By the Commission:

Q Why did she say the marriage was not legal ?
A Because it was never filed away.
Q What do you mean by filed away ? A Filed in the clerk's office, and get a copy.
Q Is that the only reason ? A Yes sir.
Q The ceremony was alright wasn't it ? A Yes sir, I suppose
Q You intended to enter into the marriage relation; it wasn't a joke, you intended to marry her ?
A Yes sir, I supposed it was legal, but she said it was not.
Q Then that's the reason, because you didn't get a license, and it wasn't filed away ? A She quit on that grounds.
Q How long after you quit her before you married this wife in the Cherokee Nation ? How many years was it ?
A Which, after me and her quit ?
Q Yes. A Two or three or four years.
Q You knew that first wife was still living ?
A Yes sir, she was done married again.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this December 2, 1902.

B. O. Jones
Notary Public.

Cherokee D 364.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

--oO--

In the matter of the application for the enrollment of Joseph Hines as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 19, 1900, Joseph Hines appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself, among others, as a citizen by intermarriage of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 25, 1902 and again on October 22, 1902. The other parties to the application are differently classified and are not embraced in this decision.

The evidence shows that Joseph Hines was married under authority of a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, to one Cynthia A. Neighbors, a Cherokee citizen by blood. It further appears that prior to his marriage to the said Cynthia A. Neighbors, Joseph Hines was formerly married in Arkansas, to one Pollie W. Henry, a white woman from whom he has never been divorced.

Section twenty-one of the act of Congress approved June 28, 1898 (30 Stats.495), provides for the enrollment of Cherokee citizens "with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Section 592 of the Compiled Laws of the Cherokee Nation (1892) is as follows:

"All marriages which are herein prohibited on account of consanguinity between the parties, or on account of either of them having a former husband or wife then living, shall be absolutely void in this Nation, without any judgment of divorce or other legal proceeding."

It is, therefore, the opinion of this Commission that the application for the enrollment of Joseph Hines as a citizen by inter-

marriage of the Cherokee Nation should be denied, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,
this MAR - 2 1903

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

Cherokee D-354

Muskogee, Indian Territory, March 9, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 2, 1903, rejecting the application of Joseph Hines for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Chairman.

Enc. M-509

(Copy)

Land
16559-1903

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. December 10, 1906.

The Honorable,

The Secretary of the Interior,

Sir:

There is enclosed herewith a report of Mr. Bixby, former chairman of the Commission to the Five Civilized Tribes, dated March 9, 1903, transmitting record in the matter of the application of Joseph Hines for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, including the Commission's decision dated March 2, 1903, rejecting the application.

The applicant, a white man, claims the right to enrollment as a Cherokee citizen by reason of his marriage on February 17, 1886, to Cynthia A. Neighbors, a Cherokee citizen by blood, in accordance with the laws of the Cherokee Nation. The record shows that prior to his marriage to Cynthia A. Neighbors, the applicant was formerly married in Arkansas to one Pollie W. Henry, a white woman, from whom he has never been divorced.

Under the decision of the Supreme Court of the United States in the case of Daniel Bird, et al., versus the United States, that his application be denied and the decision of the Commission adverse to him be approved.

Very respectfully,

C.F. Larrabee

AJW--SD

Acting Commissioner.

D.C.4389-1907. KSM.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D.25114-1096. January 17, 1907.

LRS.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

December 10, 1906 (Land 16559-1903), the Indian Office transmitted the record in the matter of the application for the enrollment of Joseph Hines as an intermarried citizen of the Cherokee Nation, and recommended that the decision of the Commission to the Five Civilized Tribes dated March 2, 1903, adverse to the applicant, be approved.

The applicant is a white man who was married to a citizen by blood of the Cherokee Nation on February 17, 1886.

In accordance with the decision of the Supreme Court of the United States in the case of Daniel Red Bird et al., the decision of the Commission, adverse to the applicant, is hereby affirmed.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

(Signed) Thos. Ryan

First Assistant Secretary.

Through the Commissioner of Indian Affairs.

4 inc. to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 354

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

Muskogee, Indian Territory. January 29, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes rejecting the application of Joseph Hines for enrollment as a citizen by intermarriage of the Cherokee Nation was affirmed by the Secretary of the Interior on January 17, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

E.R.C.
Enc. E.C. 228

IN THE MATTER OF THE APPLICATION OF

Josephs Hines

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A. Original testimony, September. 19.1900
B. Memo of application - " 19.1900
C. Affidavit rel to applicants marriage
D. Marriage license + cert.
E. Notice of final consideration
F. Sup test + order closing test 2/25/02
G.

OCT 12 1907

See Cherokee Jacket 8042

Cher D 354

E

D 356

SUPPLEMENTAL: D--355

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 25, 1900.

In the matter of application of James C. Alfrey for the enrollment of himself, wife and children as Cherokees by blood; being duly sworn and examined by Commissioner Needles he testified as follows:

Q. Is your name A. James C. Alfrey.
Q. You present a certified copy of certificate of the Commission to the Cherokees issued by the Commission to citizenship January 1, 1900, signed by Ranch Young President of the Commission, and William Talmage and C. J. Mayes, assessors into commission, attested by J. T. Parker Clerk, of the Commission, and countersigned by J. J. Cunning Executive secretary of the Cherokee Nation; in this certificate I find the name of Nancy Gunter as having been admitted to citizenship; is that the mother of your wife?
A. Yes sir.
Q. Your wife's name is Annie? A. Annie Augusta Gunter.
Q. The name of Annie Augusta Gunter your wife, does not appear in the certificate that you present? A. No sir.
Q. The names of Nancy Gunter's minor children? A. Yes sir.
Q. Did she ever say to you or any one else why the children of Nancy Gunter were not admitted in the certificate at the same time that her adult children were admitted? A. She didn't know it until a short time ago.
Q. You don't know the reason them? A. No sir.
Q. Did she say? A. No sir.
Q. Your wife as I understand is the child of Nancy Gunter who was omitted in the certificate you present here? A. Yes sir.
Q. What was your wife's age January 14 1880? A. She is 32 years old now. I was about 12 year old.
Q. Do you know whether or not the minor children of Nancy Gunter and their names were in the petition admitting her and her adult children? A. No sir, there were none of them.

I, the undersigned stenographer, states that as stenographer above to the best of my ability and that he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green

Subscribed and sworn to before me this 25 day of September 1900.

J. P. Needles

Commissioner.

a D355

POOR ORIGINAL -
BEST AVAILABLE COPY

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 1[illegible],1[illegible].

In the matter of the application of James Samuel Alfrey for the enrollment of himself, wife and children as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A James Samuel Alfrey.
Q How old are you? A Thirty-eight years old.
Q What is your post-office address? A Grove, Indian Ter'y.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A By intermarriage.
Q How long have you lived in the Cherokee Nation? A Since June 18[illegible].
Q Lived continuously here since that time? A Not all of the time.
Q Where have you lived? A My citizenship has been here ever since then.
Q Where have you lived since 18[illegible]? A I have lived part of the time since that time at Siloam Springs, Arkansas.
Q How long did you live there? A About three years, but my citizenship was here.
Q You lived there with your family? A Yes sir.
Q And you voted there? A No sir.
Q Never voted there? A No sir.
Q About three years,-that would bring you up to 1897? A Yes sir.
Q You have lived here since 1897 have you? A Part of the time.
Q What do you mean by part of the time? A I have a business at Siloam Springs Arkansas, and it is necessary for me to be there part of the time on business.

Examined by Cherokee Representative [illegible]:

Q Did you have a business in the Cherokee Nation at the same time? A Yes sir.
Q Where at? A At [illegible], I.T. [illegible].
Q You had business both at this Indian Territory and at Siloam Springs? A Yes sir, and also I am in business at Grove now.
Q How long have you been in business at Grove? A I opened up the first of the year there in the mercantile business, but I was in Vinita in 1893 [illegible].

Com'r Needles:
Q What was the name of your wife before you married her? A Nannie A. Hunter.
Q For whom do you apply for? A For myself wife and one child.
Q What is her age? A Thirty-two.
Q What degree of blood is she? A One-thirty-second.
Q What is the name of her father? A C. D. Hunter.
Q Is he living? A Yes sir.
Q What is the name of her mother? A [illegible] Hunter.
Q Is she living? A Yes sir.
Q Has your wife been living with you as your wife continuously ever since you married her? A Yes sir.
Q Is she alive now? A Yes sir.
Q Resident of the Cherokee Nation? A Yes sir, xxxxxxxxxxxxxxxxxxxxx
xxxxxxQ Where was she raised born was she? A She was born in Arkansas.
Q Does her name appear upon the authenticated roll of 1880?
A I think so.
Q What are the names of your children? A Genevieve, she is four years old.

Com'r Needles: The applicant presents a marriage license regularly issued by the authorities of the Cherokee Nation under the seal, and also marriage certificate that he was married to one Nancy A. Gunter, a citizen of the Cherokee Nation, according to the laws of the Cherokee Nation, on the first day of April, 1894.
1880 roll examined for applicant's wife, and name not found;
1896 roll page 554 #3 James Samuel Alfrey, Delaware District;
1896 roll page 555 #26 Nancy Augusta Alfrey Delaware Dist;
1896 roll page 470 #23 Genelevere Alfrey, Delaware Dist.

Com'r Needles: The name of James Samuel Alfrey appears upon the census roll of 1896; he presents a proper certificate of marriage, certifying that he was married to one Nancy A. Gunter in the year 1894, and the name of his wife, Nancy A. Gunter, appears upon the census roll of 1896 as Nancy A. Alfrey; the name of his child Genevieve appears upon the census roll of 1896; upon thorough investigation of the authenticated roll of 1880 the name of his wife is not found, not her by her maiden name, neither is the name of her father and mother found upon the census roll; consequently final judgment as to the enrollment of said James S. Alfrey his wife Nancy and his child Genevieve ~~[illegible]~~ will be suspended, and their names will be placed upon a doubtful card, awaiting satisfactory proof as to citizenship.

I, [illegible], a notary public, certify that the foregoing is a true and correct copy of the original on file in the office of the Commissioner to the Five Civilized Tribes, as recorded in the testimony and proceedings in the case of [illegible] and that the foregoing is a true and correct copy of the original on file in said office.

Witness my hand and seal this [illegible] day of [illegible] 1900.

Commissioner.

"R"

File with Cherokee D-348

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Nancy Gunter for enrollment as a Cherokee citizen, Cherokee D-422.

Appearances:
A.S.McKennon, South McAlester, I. T., Attorney for the applicant;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter on February 10, that her case would be taken up for final consideration by the Commission on the 26th inst. She this day appears by her attorney, A. S. McKennon, of South McAlester, I. T., and by a special request, and agreement with the representative of the Cherokee Nation the case is this day taken up for consideration.

JOHN T. GUNTER, being sworn and examined, testified as follows:
BY MR. McKENNON:
Q What is your name? A John T. Gunter.
Q What is your age? A 46.
Q Where do you live? A Vinita, Indian Territory.
Q How long have you lived in the Cherokee Nation? A Since '79.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Have you held any office in the Cherokee Nation? A Yes sir.
Q What is it? A I was member of the Cherokee Senate at one time, elected in 1895
Q Are you a son of Nancy Gunter? A Yes sir.
Q Is she living? A Yes sir.
Q About what is her age? A Near 70 years old I suppose, I don't know exactly.
Q Is she the same Nancy Gunter who was admitted to citizenship in the Cherokee Nation January 14,1880? A Yes sir, that is my mother.

BY COMMISSION: It appears from the records of the Cherokee Nation that the following record appears in the docket of the Cherokee Commission on Citizenship:

"Commission on Citizenship, Case No.5.
Mrs. Nancy Gunter, and children, Iula M. Curtis, Amanda O. Harris Ann E. Chandler, J. T. Gunter and Lucy Jane Fortner,
vs
The Cherokee Nation.
(Petition for citizenship January 14,1880.)

The evidence before the Commission on the above case shows to the satisfaction of the Commission that the said Nancy Gunter is a Cherokee by blood, also native born, and therefore it has been decided to admit the said Nancy Gunter and family, to-wit: Iula M. Curtis, Amanda O. Harris, Ann E. Chandler and John T. Gunter and Lucy Jane Fortner to all the rights and full privileges of Cherokee citizenship.

Roach Young, President Com.
William Harnage,
G. W. Hayes, Associate Com.
J.B.Hayes, Clerk Commission."

This entry appears upon page six.

Q Are you the same J. T. Gunter whose name appears in that record? A Yes sir.
Q Where is your mother now? A She is over in Arkansas, Benton County.

Q Did she ever reside in the Cherokee Nation? A Yes sir.
Q When? A She was born in the Old Nation.
Q Where? A In Georgia.
Q Very well, go ahead and make a statement.
BY MR. HASTINGS: I am going to object to any statement prior to this admission, because there is no need to go behind that.
Q When did she come to the Nation? A She came with the Old Settler Cherokees I think, about the year 1835, I have been told, I don't know as to that.
Q How long did she reside here then? A -
BY MR. HASTINGS: Comes now the Representative of the Cherokee Nation and protest against taking of any testimony prior to the date of the admission of the applicant to citizenship in the Cherokee Nation, to-wit: on January 14,1880, because the same is irrelevent and immaterial. The certificate of admission clearly admits that the woman is a Cherokee by blood and upon that date was entitled to all the rights and privileges of any other Cherokee citizen, and therefore, it cannot be seen why it is pertinent to go behind that date.
BY MR. McKENNON: This being admitted by the Representative of the Nation, I withdraw the question.
Q Now then after her admission, where has she resided? A Mostly in the State of Arkansas.
Q Did she have any property in the Nation at the time she was admitted? A Yes sir.
Q What? A Horses and cattle and littleimprovement in Cooweescoowee District.
Q An improvement upon lands? A Yes sir.
Q Did she retain that property in the Nation after her admissin? A Yes sir.
Q Did she ever remove all of her effects out of the Nation after she was admitted? A Not after she was admitted, no sir. She had always had effects here since that time; her stock of cattle, branded "N.G."
Q Did she own a farm in the Nation? A At that time she was admitted she did not; she did after that.
Q For how long? A Well up to the present time.
Q She still holds a farm in the Cherokee Nation? A Yes sir.
Q Has she all the while been recognized as a Cherokee citizen? A Yes sir.
Q At the time of her admission did she have living any minor children whose names were not mentioned in the record of the Commission admitting her? A Yes sir, had three children.
Q What were their names? A Amy, Nannie, Caldeen.
Q What is Amy's namenow? A Amy Frazier.
Q What is the nameof her husband? A Samuel Frazier. Her name is Sarah A. Frazier.
Q Is that the same Samuel Frazier whose application is numbered 419? A I suppose it is, yes sir.
Q The other sister, whose name is Nannie A., who is she now? A Mrs. James Alfrey.
Q That the wife of James S. Alfrey? A Yes sir.
Q Who is Caldeen? A He is the youngest child of Nancy Gunter.
Q Are these all residing in the Cherokee Nation now? A Yes sir.
Q How long have they resided in the Cherokee Nation?A Since '88.
Q All the while? A Yes sir. My brother has been out now attending to somebusiness of father's estate.
Q But his residence is in the Cherokee Nation? A Yes sir.
Q Have these three since the admissionof their mother been enrolled as Cherokee citizens? A Yes sir.
Q And always recognized as such? A Yes sir. Drew money in every payment; my brother Caldeen I think has voted a number of times in the Cherokee Nation; so has Mr. Frazier and Mr. Alfrey.

BY MR. HASTINGS:
Q Your mother lives in Siloam Springs, Arkansas? A Yes sir, Siloam Springs, Benton County, Arkansas.
Q She has always maintained a residence there? A Yes sir.
Q When did she first purchase an improvement in the Cherokee Nation? A In the fall of 1880.
Q Does she own the same improvement yet? A No sir, she does not own that same improvement yet.
Q What disposition was mdeof the first improvement? A I sold it
Q When? A In 1882.
Q When did she acquire another one? A In 1882, right away, Delaware District.
Q The same year? A Yes sir.
Q Has she that improvement yet? A Yes sir.
Q Where is it located? A In Delaware District, Cherokee Nation.
Q Your father is dead, I believe? A Yes sir.
Q He died in Siloam? A Yes sir.
Q Place your mother now lives? A Yes sir.
Q Has Mrs. Alfrey continuously resided in the Cherokee Nation since 1838? A I don't know, I think maybe she has been out, once or twice.
Q Has Mrs. Frazier continuously resided in the Nation since that time? A Yes sir.
Q Has your younger brother Caldeen? A Yes sir.

BY MR. McKENNON: I will ask that a copy of that testimony be filed with each of the cases, No.D-412, case of Caldeen Gunter, D-419, case of Samuel Frazier andothers and D-355, case of James S. Alfrey, and others.
BY COMMISSION, of Mr. McKennon: You are representing these four cases are you? A Yes sir.
BY COMMISSION: The request of the attorney for the applicants will be complied with, and the testimony made a part of the record in the cases mentioned.
Attorney for the applicant, Fancy Gunter, and Representative of the Cherokee Nation submit the case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.
The attorney for the applicant will be given ten days in which to file a brief, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

M.D. reen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 26, 1902.

C. R. Breckinridge

Commissioner.

"R"

Cherokee D 355

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of James S. Alfrey for the enrollment of himself, wife and children as Cherokee citizens.

Appearances:
A.S.McKennon, South McAlester, I. T., attorney for the applicants, and applicant-in-chief in person;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 6,1902, that his case would be taken up for final consideration by the Commission on the 25th day of February 1902. Applicant this day appears in person and by his attorney, Mr. A.S. McKennon, of South McAlester, I. T.

JAMES S. ALFREY, being first duly sworn, and being examined testified as follows:
BY MR. McKENNON:
Q What is your name? A James S. Alfrey.
Q What is your age? A 39.
Q Are you a white man? A Yes sir.
Q What is your wife's name? A Mannie Augusta Alfrey.
Q Who was her mother? A Nancy Gunter.
Q That the same Nancy Gunter whose name appeared in the record of the Cherokee Citizenship Commission introduced in this case? A Yes sir.
Q What is the age of your wife? A 32.
Q When were you married to her? A April, 1894.
Q Has she been enrolled as a Cherokee citizen? A Yes sir.
Q Did you marry her under Cherokee laws? A Yes sir.
Q Where have you resided with her since you married her? A Our citizenship has been in the Cherokee Nation, but we have not resided in the Cherokee Nation all the time.
Q When did you first remove to the Cherokee Nation? A In 1896, we bought our farm in 1894.
Q You bought a farm in 1894 and you moved to the Cherokee Nation in 1896? A Yes sir.
Q How long did you reside here continuously then? A six to eight months, I don't remember exactly.
Q Where did you go to then? A Went back to SiloamSprings.
Q Did you carry your effects with you or did you leave them here? A Left them.
Q Your household goods? A Yes sir.
Q What other property did you leave in the Cherokee Nation? A Farm and stock.
Q Leaving your household goods how did you live in Siloam Springs? A Boarded at the hotel.
Q When did you return to the Cherokee Nation? A January 1898.
Q Have you resided here continuously since that time? A Yes sir.
Q Since you came to the Territory in 1896 to reside you have never removed your effects then from the Nation? A No sir.
Q Has your wife been recognized as a citizen in the Cherokee Nation? A Yes sir.
Q Was her citizenship ever questioned? A No sir.
Q Are you recognized as an intermarried citizen of the Cherokee Nation? A By the people through the country, yes sir.
Q You were married according to Cherokee laws were you? A Yes sir.
Q Have you filed proof of your marriage with the Commission? A Yes sir.
BY W.W.HASTINGS:
Q Your wife was a sister of Mr. Frazier's wife? A Yes sir.

Q You married her in 1894? A Yes sir.
Q She was a daughter of Hamay Gunter, of Silean Springs, Arkansas?
A Yes sir.
Q Prior to that time she made her home with her mother? A Yes sir.
Q And since that time of course your home has been her home?
A Yes sir.

BY COMMISSION: The attorney for the applicant and the Representative of the Cherokee Nation submit this case to the Commission, and same is ordered closed and reported to the Commission for final decision, based upon the evidence of record. The attorney for the applicants will be granted ten days in which to file a brief, a copy with the Representative of the Cherokee nation and a copy with the Commission.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 26, 1902.

C. R. Breckinridge.

Commissioner.

D. 355

James S. Alfrey et al
Application for
enrollment as
Cherokee Citizens

Brief for Applicants

A. S. McCennon
Atty for Applicants

Before the Honorable Commission to the
Five Civilized Tribes, at Muskogee, I. T.

In Re enrollment of James Samuel Alfrey as an Inter- married Cherokee Citizen, and of his wife, Nannie A. Gunter, and their Child, Genevieve Gunter, as Cherokee Citizens by blood, D-355.

The record in this case, showing that on January 14, 1880, Nancy Gunter and certain of her children, named, were re-admitted to citizenship in the Cherokee Nation by the judgement of the Cherokee Citizenship Commission, is as follows:

"Commission on Citizenship, Case No. 5.
Mrs. Nancy Gunter, and children, Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler, J. T. Gunter and Lucy Jane Fortner,
vs
The Cherokee Nation.
(Petition for citizenship January 14, 1880).
The evidence before the Commission on the above case shows to the satisfaction of the Commission that the said Nancy Gunter is a Cherokee by blood, also native born, and therefore it has been decided to admit the said Nancy Gunter and family, to-wit: Lula H. Curtis, Amanda O. Marrs, Ann E. Chandler and John T. Gunter and Lucy Jane Fortner to all the rights and full privileges of Cherokee Citizenship.
Reach Young, President Com.
William Harnage,
G. W. Mayes, Associate Com.
J. B. Mayes, Clerk Commission."

This judgement was rendered by the Cherokee Citizenship Commission, whose jurisdiction and authority in this behalf is not questioned, because it found, from the evidence submitted, that Nancy Gunter was "a Cherokee by blood, also native born". The names of three of her minor children, who were very young at the time, were not embraced in this record, this being the law and custom of the Cherokee Nation in such cases. The applicant, Nannie A., or Nancy Augusta, being one of these.

On the 1st day of April, 1894, she was married to applicant, James Samuel Alfrey, and to them was born applicant, Genevieve Alfrey, who was, at the time of their application, September 19, 1900, four years of age.

The Cherokee Roll for the Delaware District, 1890, shows enrollment of applicants as follows:

Page 364, No. 3, James S. Alfrey,

page 430, No. 26, Nannie A. Alfrey,

page 340, No. 28, Genevieve Alfrey.

The evidence shows that on April 1st, 1894, James Samuel Alfrey and Nannie A. Gunter were married according to the Cherokee Laws. She was, therefore, at that date recognized as a citizen of the Cherokee Nation, else the license would not have been granted by the Cherokee authorities, and the record thereof made. In that year they bought a farm in the Cherokee Nation and moved there in 1896, living there six or eight months. They then went to Siloam Springs, Arkansas, leaving in the Cherokee Nation their farm and all their household goods, boarding at a hotel in Siloam Springs while there. In January, 1898, they returned to their home in the Cherokee Nation and have resided there continuously ever since.

Nannie A. Was duly recognized as a citizen of the Cherokee Nation all the while, and, since the marriage of James Samuel Alfrey to her, he has been recognized as an intermarried Cherokee Citizen, voting at the Cherokee elections.

The first paragraph of Section 21 of the Act of June 28, 1898, known as the Curtis Act, is as follows:

"That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty(not including freedmen) as the only roll intended to be confirmed

by this and preceeding acts of Congress, and to enroll all persons now living whose names are found on said roll, and all dependants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investogate the right of all other persons whose name are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

The provisions of this act authorize and require the enrollment, by the Commission to the Five Civilized Tribes, of all persons who were minors at the time of the admission of their parents, and were afterwards enrolled by the Cherokee authorities, and settled in the Cherokee Nation. This absolutely covers the case of the applicant, Nannie A. and fixes her right to enrollment; and the right of James Samuel Alfrey, her husband, to enrollment as an inter-married citizen, and of their child, Genevieve, to enrollment as a citizen by blood, follows as a matter of course.

The testimony of John T. Gunter, in case of Nancy Gunter, D-420, is filed with, and made a part, of, this case. See testimony in said case.

We confidently and respectfully submit their case and ask their enrollment as Cherokee Citizens.

A S McKennon
Atty for Applicants

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee I. T. April 9th 1902.

Cherokee D 355.

In the matter of the application of James S. Alfrey for the enrollment of himself wife and children as citizens of the Cherokee Nation.

Brief of the Cherokee Nation.

****

The wife of James S. Alfrey the applicant is Nannie A Gunter a daughter of Nancy Gunter who is listed for enrollment on Cherokee Doubtful Card Number 422. She was thirty-two years of age at the time her application for enrollment was made in September 1900 hence she must have been born in 1868; he states that she was a minor at the time her mother was readmitted on January 14th 1880 but her name was not includedin the certificate of readmission of her mother hence whatever right the wife of applicant has must flow from hermother and in as much as the testimony clearly shows that her mother was at that time a resident of the state of Arkansas, Benton County, and that she continued to reside there where she is now residing and where her husband resideduntil a short time ago we do not see how under the law the Commission can enroll the applicants.

Again the appplicant was married to his wife in 1894, when his wife was twentysix years of age or more than eight years past her majority and the testimony shews that she was at the time a resident of Benton County Arkansas where she was born and where she had always resided and continued to reside until 1896 when she and her husband first removed to the Cherokee Nation and has lived a part of the time since then.

In the event that the Commission determines that the admission of the mother admits her we do not see how the commission can enroll this family because of the act of the Cherokee National Council of December 4th 1894 required that all persons who had heretofore been readmitted to

citizenship in the Cherokee Nation to within six months remove to and permanently locate within the limits of the Cherokee Nation. The wife of the applicant has been of age since 1886 and the testimony shows she resided in Benton County Arkansas for ten years after that time with her mother, and that her father died there. Clearly the domicile of the child follows that of the parent and if the mother is not entitled to be enrolled as a citizen of the Cherokee Nation it is difficuly to understand upon what theory the daughter who gets her rights through her mother could be considered entitled to be listed for enrollment. Refenence is made to the brief filed in the case of Nancy Gunter listed for enrollment on Cherokee Doubtful Card Number 422.

Respectfully submitted,

U W Hastings

Attorney for the Cherokee Nation.

B.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, July 8th, 1902.

In the matter of the application of James S. Alfrey for the enrollment of himself as a citizen by intermarriage of the Cherokee nation and for the enrollment of his wife Annie A. Alfrey and his children Genevieve and Curtis C. Alfrey as citizens by blood of the Cherokee nation.

Appearances:
W. T. Hutchins for Applicant.
J. C. Starr for Cherokee nation.

Supplemental to D-355.

JAMES S. ALFREY, being duly sworn, testified as follows:--
Examination by Mr. Hutchins.

Q. State your name? A. James Samuel Alfrey.
Q. You have testified in this case twice before? A. Yes, sir.
Q. Just tell the facts connected with your removal to the Cherokee nation and your residence therein subsequent to your marriage to your wife.
A. Well, in July--after April 1st, 1894, I bought a farm in Indian Territory with the intention of making that my home. However, I didn't move into the territory until 1896.
Q. State why you didn't. A. For the reason that the business in Siloam Springs was in such condition at that time that it was impossible for me to leave. So as soon as I got the busines s in shape so I could get away in 1896 I moved into the territory and remained there until I was called back to Siloam Springs to look after the business again.
Q. State why you were called back? A. On account of the health of my partner. I remained there then--Wait just a minute. I didn't reside there as a resident of Siloam Springs during the time I was there.
Q. Tell what became of your partner. A. My partner had to go to California for his health. As soon as he recovered sufficiently to return I came back to the territory again, which was in January, 1898, and I have resided in the territory from that time until the present.
Q. Did you ever exercise the rights of citizenship in Arkansas or any other state after you married a Cherokee citizen and applied for citizenship in the Cherokee nation? A. Not, sir; I did not in any way whatever. I never exercised right by voting -- municipal, state, county or otherwise.
Q. Did you, after you were married, exercise such right in the Cherokee nation always? A. Yes, sir; I voted in the Cherokee elections when I was here when the election was held. Sometimes I was here and sometimes in St. Louis buying goods, or some other place. I was always recognized as a legal voter and voted.
Q. Was it your intention, when you married into the Cherokees, to remove into the Cherokee nation and live permanently when your business permitted? A. Yes, sir.
Q. When did you establish a business first in the Cherokee nation?
A. Why, that was in April, the latter part of April, 1894.
Q. Did you have a stock of goods there and attend to your business always afterwards? A. Until the latter part--until February, 1896, I believe, I dispersed of that business there.
Q. Have you, at all times, since you established the business at Oaks, had property and interests in the Cherokee nation?
A. Yes, sir; had the stock on my farm from the time I bought it until the present.

Q. You always had your farm ever since a few months after March, You, sir

G. R. SUNTER, being duly sworn, testified as follows:—
Examination by Mr. Hutchins.

Q. State your name? A. G. R. Sunter.
Q. What is your post office? A. When I am out there it is Vinita.
Q. What relation are you to the applicant here, who has just testified? A. Brother in law.
Q. State if you know the facts with reference to his removal to and residence in the Cherokee nation subsequent to his marriage to your sister.
A. Yes, sir. In July, after he was married in April, he bought a farm in Delaware district in the Cherokee nation and intended to move there as soon as he could get his business in shape in Siloam Springs to leave and afterwards he moved to the territory. I forget the date. I think it is sometime in January, 1896.
Q. Did he make his home in the Cherokee nation then? A. Yes, sir. And his partner got sick at Siloam Springs and he went to California for his health and Mr/ Alfrey went back and took care of the business when he was gone. He left his goods in the Cherokee nation and boarded in Siloam Springs while he was there; he and his folks.
Q. When his partner came so he could attend to his-----
A. Yes, sir; as soon as his partner came back he returned to the territory and has been a resident ever since.

Examination by the Commission.

Q. What year did you go to Vinita? A. I came back to Vinita in 1896. He left his things at home, I think, in 1896. Sometime in 1898 he came back.
Q. What time in 1896? A. I don't know.

Examination by Mr/ Hutchins.

Q. Do you know of his exercising his rights of citizenship in the Cherokee nation? A. No, sir; he never voted, I don't think. I know they refused to let him-----
Q. I mean in the Cherokee nation? A. Oh, yes; I went with him to the polls.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 16 day of July, 1902.

G. R. Sunter
Notary Public.

Cher
Supp'l to # D 355

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 21, 1902.

In the matter of the application of JAMES S. ALFREY, for the enrollment of himself as a citizen by intermarriage, and his wife, NANNIE A. ALFREY, and his children, GENEVIEVE and CURTIS C. ALFREY, as citizens by blood, of the Cherokee Nation:

JAMES S. ALFREY, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A James S. Alfrey.
Q What is your post office address ? A Grove, I. T.
Q What is your age ? A Forty years old.
Q Are you the same James S. Alfrey that made application for enrollment as an intermarried citizen of the Cherokee Nation, in September, 1900 ? A Yes sir.
Q What is the name of your wife ? A A Nannie A. Alfrey.
Q Is she a citizen by blood of the Cherokee Nation ?
A Yes sir.
Q Is she living at this time ? A Yes sir.
Q When were you married to your wife Nannie A ? A In 1894.
Q Had you ever been married prior to your marriage to this wife ?
A No sir.
Q Had she ever been married prior to her marriage to you ?
A No sir.
Q Have you and your wife Nannie A., lived together as husband and wife all the time since your marriage up to the present time ?
A Yes sir.
Q Never been separated ? A No sir.
Q Were you living together as husband and wife on the first day of September, 1902 ? A Yes sir.
Q Have you lived in the Indian Territory all the time since your marriage to your wife up to the present time ?
A Most all the time, yes sir.
Q Well how much of the time have you been out ?
A As to living out, I haven't been out since I was married, I have been out looking after business.
Q How long is the longest you ever stayed out at any one time ?
A About six months I expect.
Q Where were you ? A Siloam Springs, Arkansas. I wasn't living out, I was boarding.
Q Did you have your family with you ? A Part of the time, and part of the time I didn't.
Q How many trips were you out on business since you were married ?
A Twice or three times.
Q When was the last trip you were out ? A In 1899, I believe. I have been in business at Grove, Indian Territory, ever since that time.
Q When you went to Siloam Springs and took your family, did you move all your household things over there with the intention of remaining ? A I didn't remove anything. I didn't keep house while we were there.
Q Boarded all the time you were there ? A Yes sir.
Q How long after you were married before you went to Siloam Springs?
A Well, when I was married I was living at Siloam Springs.
Q How long after you were married until you came to the Indian Territory to make that your home ? A In 1896.
Q Well how long did you stay here in 1896 before you went back to Siloam Springs ? A I stayed about six or eight months, and didn't go back to Siloam Springs to make that my home?. My cousin who was running the business for me at Siloam Springs became in poor health, and I went there to look after the business while he was

away for his health, so we boarded all the while, and Siloam Springs hasn't been my home since we were married.
Q When you came to the Indian Territory where did you locate ?
A I lived at Vinita a while, and then I moved over there to Grove.
Q You first came to Vinita ? A Yes sir.
Q Did you keep house there ? A Yes sir.
Q When you came in 1896 ? A Yes sir.
Q Afterwards you moved to Grove, and went in business there?
A Yes sir.
Q Have you been keeping house there all the time ? A Yes sir.
Q When you went to Arkansas on these trips you took your family ? But you never kept house ? A I never took my family all the time. They were in the Territory. They were there on a visit occasionally.
Q As a matter of fact you claim that you have had your actual residence in the Indian Territory ever since 1896 ? A Yes sir.
Q Since 1896 when you went to Siloam Springs it was a temporary absence, and on account of business ? A Yes sir, on account of my partner's health.
Q How long has your wife lived in the Indian Territory ?
A Since 1896.
Q Her residence since your marriage has been the same as yours ?
A Yes sir.
Q These children, Genevieve and Curtis C., are your children by your wife Nannie A ? A Yes sir.
Q They are still living ? A Yes sir.
Q Have these children lived in the Indian Territory all their lives ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this November 25, 1902.

B O Jones
Notary Public.

Cherokee D. [illegible]

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of [illegible] A., Genevieve and Curtis C. Alfrey as citizens by blood of the [illegible] Nation.

D E C I S I O N.

The record in this case shows that on September 1[illegible], 1900, James C. Alfrey appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of his wife, Nannie A., and his minor child, Genevieve Alfrey, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of [illegible] application were had at Vinita, Indian Territory, on November 5, [illegible], and at Muskogee, Indian Territory, on February 2[illegible], July 2, and October 31, 1902. An affidavit of the birth of Curtis C. Alfrey was filed with the Commission on June 1, 1901, showing the date of his birth to have been May 1[illegible], 1901. On February 26, 1902, a copy of the testimony taken at Muskogee, Indian Territory, on said date in the matter of the application of Nancy Hunter, Cherokee [illegible]-[illegible], was ordered that herein and made a part of the record in this case. The application also included James C. Alfrey for enrollment as a citizen by blood of the Cherokee Nation, but his status as such is not [illegible] at this time and he is not considered in this decision.

The evidence shows that Nancy Hunter, the mother of Nannie [illegible], was admitted to citizenship in the Cherokee Nation on Jan[illegible], 1896, by the duly constituted authorities of said Nation, the [illegible] being at that time a minor.

It is further shown that James C. Alfrey, a white man, was married to Nannie A. Hunter, and as a result of that marriage the [illegible] herein. Nannie A. Alfrey is identified on the Cherokee census roll of 1896, also the Cherokee census roll of [illegible], also the Cherokee census roll of [illegible]. Curtis C. Alfrey is not found to be upon any roll of the Cherokee Nation, but is identified by a birth affidavit made a part of the record herein.

Section [illegible] of the act of Congress approved June 28, [illegible], provides for the enrollment of all persons now [illegible] in Indian Territory who can authenticate their blood, and

their descendants born since the date of said roll,

"and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; ."

The evidence further shows that James S. Alfrey lived with his said wife from the date of his marriage to her, and they removed to the Cherokee Nation in 1896 and have resided therein continuously since that date. The minor children have resided in the Cherokee Nation all their lives.

It is, therefore, the opinion of this Commission that Minnie A. Alfrey, Genevieve Alfrey and Curtis O. Alfrey should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Dated at Muskogee, I. T.,
this JUN 1 - 1903

JCS

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Tahlequah I. T. July 21, 1903.

Cherokee D 355.

In the matter of the application for the enrollment of Nannie A Alfrey et al as citizens by blood of the Cherokee Nation.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation by its representative and protests against the decision of the Commission rendered in the above entitled case on June 1, 1903 and requests that the record with the decision and this protest be forwarded to the Honorable Secretary of the Interior for Review.

----------*********----------

Nannie A. Alfrey is the wife of James S. Alfrey and the daughter of Nancy A. Gunter who is listed for enrollment on Cherokee Doubtful card number 422. She was thirty-two years of age at the time her application for enrollment was made in September 1900 hence she must have been born in 1868; her husband states that she was a minor at the time her mother was readmitted to citizenship in the Cherokee Nation, on January 14, 1880but her name was not included in the certificate of readmission of her mother hence whatever rights Nannie A Alfrey (Nee Gunter) has must flow from her mother and in as much as the testimony clearly shows that her mother was at that time a resident of the state of Arkansas, Benton County, that she continued to reside there where she is now residing and where the husband of Nancy Gunter, the father of applicant, resided until his death a short time ago we do not see how under the law Nannie A Alfrey and her children are entitled to be enrolled as citizens of the Cherokee Nation.

Again the applicant was married to her husband in 1894, when Nannie A Alfrey was twenty-six years of age or more than eight years past her majority and the testimony shows that she was at that time a resident of Benton County Arkansas where she was born and where she had always resided and continued to reside until 1896 when she and her husband first removed to the Cherokee Nation and has lived a part of the time since then.

The Commission in its decision finds that the applicants removed to

the Cherokee Nation in 1896; it is not contended by the applicants that they came to the Cherokee Nation prior to 1896; the Commission also decides that Nannie A Alfrey was a minor at the time her mother was readmitted in 1880 and therefore readmitted by the fact that she was a minor at that time; or in other words the readmission of the mother readmits her minor children.

Now then, the Cherokee National Council on December 4th 1894 passed the following act:

" That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months after the passage of this act or from the date of the readmission of persons hereafter readmitted or no rights whatever shall accrue to such persons by reason of such readmission, provided that nothing in this act shall bar minors and orphans."

Nannie A. Alfrey has been of age since 1886 and the testimony shows that she was residing in Arkansas when she was readmitted in 1880 and that she continued to reside in Arkansas until 1896; that her father died in Benton County Arkansas; clearly the domicile of the child follows that of the parents and if the mother never complied with the Cherokee Law and never acquired any rights of citizenship in the Cherokee Nation we do not see under what theory it can be held that the daughter who gets her rights through the mother could be considered entitled to be enrolled as a citizen of the Cherokee Nation.

Nannie A Alfrey not having complied with the Act of the National Council hereinabove quoted and having forfeited her right to be enrolled as a citizen of the Cherokee Nation if she ever acquired any rights there was no law authorizing the census takers to place her name upon the 1894 pay roll and the 1896 census roll therefore her enrollment and that of her children on these rolls was "Without authority of law," and their names should now be omitted because they were placed upon these two rolls "Without authority of law."

The Commission held in the case of Berley E. Guy et al Cherokee D 31, on November 20th 1902, that the act of the National Council of December 4th 1894 was binding upon it and rejected the applicant in that case because she did not comply with this act; the applicants Nannie A. Alfrey and her children are unquestionably in the same attitude as Berley E Guy and we ~~so~~ see no reason why the decisions of the Commission should not be uniform and that the reasoning in the Berley E Guy case is certainly

applicable to this case.

Attention is called to the decision of the Commission in the case of William E Dupree et al Cherokee No 3354 and Cherokee D 403, now on appeal before the Department: In this case the Commission in its decision quotes the act of December 4th 1894 (Giving the date December 2 1894) and then uses this language:

"It further appears that the said William E Dupree removed to the Cherokee Nation on December 16, 1890 and since that time has resided, with his family, in said Nation continuously, up to and including the date of their applications herein; and that by such removal and continued residence he has complied with the provisions of the act above quoted"

In this case Dupree admits that he did not remov to and permanently locate in the Cherokee nation with the one year as prescribed by the act of December 5, 1888 under ~~xxxx~~ which he was readmitted; and the Commission decides that he is entitled because he came prior to the limitation prescribed by the Act of December 4th 1894; The Commission decides that Berley E Coup is not entitled because she failed to comply with the requirements of the Act of December 4th 1894.

We contend that if this act is binding on the Commission at all it ~~xxxbinding xxx~~ is just as binding when the applicant failed to com ly with its provisions as it is when its provisions were fully complied with.

The act of Congress of June 10th 1896 requires that the United states Commission shall respect all laws of the several tribes or nations not inconsistent with the laws of the United states, in making the rolls of citizenship of the said tribes. The act of December 4th 1894 hereinbefore quoted is an act of the Cherokee National Council and we most earnestly contend that it should be respected.

We submit that we believe that under our view of the law this erroneous decision of the Commission should be reversed by the Honorable Secretary of the Interior.

Respectfully,

W W Hastings

JES

Attorney for the Cherokee nation.

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-355.

Muskogee, Indian Territory, July 9, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 1, 1903, granting the application of James S. Alfrey for the enrollment of his wife, Nannie A. Alfrey, and his two minor children, Genevieve and Curtis C. Alfrey, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. H-10.

1/MDG

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
WM. O. BEALL,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D 355

ADDRESS ALL THE COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, April 21, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated June 1, 1903, granting the application for the enrollment of Nannie A. Alfrey and her two minor children, Genevieve and Curtis C. Alfrey, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on April 8, 1904.

Respectfully,

Chairman.

Denied

IN THE MATTER OF THE APPLICATION

[illegible] Fillers

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

IW D-35

A. Original testimony September 14. 1900
B. Mem. of application " 14. 1900
C. Marriage license.
D. " Certificate
E. Supplemental testimony September 25. 1900
F. Birth certificate, Curtis C. Affsey.
G. Motion [illegible]

Sup. testimony from case of Nancy [illegible]
Sup. testimony and order closing testimony 2/25/01

Receipt for testimony

Brief for applicant

Filed 21 1904 [illegible] transferred to Chrotter [illegible]

Cher D 356

TESTIMONY AS TO APPLICANT.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 19, 1900.

In the matter of the application for Joel D. Smith for the enrollment of himself and wife as Cherokee citizens; being sworn and examined by Commissioner Needles he testified as follows:

Q What is your name? A Joel D. Smith.
Q What is your age? A Thirty-five.
Q What is your post-office address? A Tahlequah, Indian Territory.
Q What district do you live in? A Goweesoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yessir.
Q Have you made application for enrollment? A By wife.
Q What is your wife's name? A Alice.
Q Give her name as it appears on the roll here. A Alice Clark.
Q Are you married to the applicant? A Yessir.
Q Your wife's mother a non-citizen? A Yes sir.
Q How long have you been married? A I married her in 1888.
Q What is her age? A She is thirty-two.
Q What is the degree of blood you claim? A One-sixteenth.
Q What is the name of her father? A John Clark.
Q Is he living? A Yes sir.
Q What is the name of her mother? A Nancy Clark.
Q Is she living? A Yes sir.
Q Have you any children? A No sir.
Q Have you any certificate of marriage? A No sir.
Q Who married you? A Carter.
Q Is he living? A Yes sir, he is here now.
Q Is he a minister? A Yes sir.
Q Have you your marriage license? A No sir, I did have them.
Q Is your name on the roll, page 79, as Alice Clark, Cowetoo District?
Q Is your name on the roll, page 581, as Joel D. Smith, Delaware District?
Q Is your name on the roll, page 580, as Alice Smith, Delaware District?

Court Needles: The name of Joel D. Smith appears upon the census roll of 1880; he swears that he was married to Alice Clark in 1888; he swears that he was married to Alice Clark in 1888; he swears that he is a citizen by blood in the year 1880; the name of Alice Clark is found upon the intermarried roll of 1880 and also upon the census roll of 1880 as Alice Smith; the said Alice Smith will now be duly listed for enrollment by this Commission as a Cherokee citizen by blood. As to Joel D. Smith, he has represented no evidence or proof of marriage, final judgment on his enrollment as a Cherokee citizen is left open until a subsequent date, and his name will be placed upon a preferential card, awaiting proof of marriage, and other certificates of marriage and marriage license.

I, C. D. Needles, being first duly sworn, state that the foregoing testimony by me taken before the Commission to the Five Civilized Tribes was correctly recorded by me in the matter of the application of Joel D. Smith, and that the foregoing is a true and complete transcript of the testimony taken in said case.

Subscribed and sworn to before me this 19 day of September, 1900.

C. D. Needles

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I.T., October 3, 1900.

D. 356.

In the matter of the application for the enrollment of Joel D. Smith as a Cherokee by intermarriage.

Additional testimony.

Elizabeth Clark, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Elizabeth Clark.
Q What is your age? A 38.
Q What is your post office? A Grove.
Q Do you know Joel D. Smith? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q Do you know whether they were married or not? A Yes, sir.
Q What is her name? A Alice Jane.
Q How do you know they were married? A I saw them married.
Q Where was that? A It was at our house.
Q In the Cherokee Nation? A Yes, sir.
Q When was it? A In 1888.
Q Who married them? A Parson Carter.
Q Do you know whether he had any license or not? A Yes, sir.
Q Did you see the license? A Yes, sir.
Mr. W.W.Hastings, representative of the Cherokee Nation: Do you know where he got his license from? A From Glend Shelton.
Q Is the Clerk of Delaware district at that time? A Yes, sir.
Q Did you live in Delaware at the time? A Yes, sir.
Q Where? A Down close to the mouth of Honey Creek.
Q Who married him? A Parson Carter.
Q When did he marry him? A In 1888.
Q Has he been recognized as a citizen ever since? A Yes, sir.
Commissioner Needles: Has he lived with his wife continuously ever since? A Yes, sir.
Q Living with her now? A Yes, sir.

~~Mr.Hastings~~

Joel D. Smith, being sworn and examined, testified as follows:

Mr. Hastings: What is your name? A Joel D. Smith
Q You are the applicant are you? A Yes, sir.
Q Do you state that you made an effort to get a certified copy of your marriage license? A Yes, sir.
Q You couldn't get it? A I couldn't get it.
Q What reasons were assigned? A He said it had never been sent in.
Q Who said that? A Alberty.
Commissioner Needles: Were you over to see him? A yNo, sir, I wrote to him.
Q Have you got his letter? A I haven't got it here, Didn't bring it with me.

Mary Parkers, being sworn and examined, testified as follows:

Q What is your name? A Mary Parkers.
Q What is your age? A 25.
Q Do you know Joel D. Smith? A Yes, sir.
Q Do you know his wife, Alice? A Yes, sir.
Q Know whether they are married or not? A Yes, sir.
Q How do you know it? A I was there when they were married.
Q Do you know whether he had a license or not? A Yes, sir, I saw it.
Q When was this? A In 1888.

Joel E. Smith - 2.

Bruce T. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce T. Jones

Sworn to and subscribed before me this 4th of October, 1900.

Commissioner.

"R"

Cherokee D 356

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Joel D. Smith for enrollment as a Cherokee citizen.

Appearances:
Applicant in person;
W.W.Hastings, attorney for the Cherokee Natin.

BY COMMISSION: The applicant was notified by register letter February 6,1902, that his case would be taken up for final consideration by the Commission on the 25th day of February,1902. Applicant this day appears in person.

JOEL D. SMITH, being first duly sworn and being examined testified as follows:
BY COMMISSION:
Q Whatis your name? A Joel D. Smith.
Q How old are you? A 35.
Q Whatis your post-office address? A Hudson, Indian Territory.
Q You are an applicant before the Commission for enrollment as a citizen of the Cherokee Nation? A Yes sir.
Q You desire to make any other statement relative to your enrollment? A Nothing further than what I have made.
Q Do you submit it to the Commission for final consideration?
A Yes sir.

BY COMMISSION: The applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final consideration, based upon the evidence.

M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
APR 28 1902
ACTING CHAIRMAN.

99856

D. 356.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., April 22, 1902.

In the matter of the application of Joel D. Smith for enrollment as a citizen of the Cherokee Nation.

SUPPLEMENTAL TO D-356.

For the purpose of introducing further testimony as regards his marriage under Cherokee law, the applicant in this case, Joel D. Smith, was on the 14th day of April, 1902, requested to appear before the Commission for the purpose of introducing further testimony. He this day, to wit the 22nd day of April, 1902, appears in person and the following proceedings were had.

C. G. JAMES, being first duly sworn, testified as follows:

COMMISSION: What is your name? A C. G. James.
Q How old are you? A I am 34 years old.
Q What is your postoffice, Mr. James? A Fairland, I. T.
Q Are you acquainted with the applicant in this case, Joel D. Smith? A I am.
Q How long have you known him? A I have known him for about, well I knew him twelve years ago, twelve or thirteen years ago; I haven't known him all the while since.
Q Is he a Cherokee or a white man? A He was a white man.
Q Do you know his wife? A No, sir, I didn't know her personally.
Q What do you know about his marriage to his Indian wife? A In '89 I was deputy clerk of Delaware District, and remember having issued their license.
Q Was that a Cherokee license? A Yes, sir.
Q Do you know whether or not he was married under that license? A No, sir, I don't.
Q Was that license ever returned to you for record? A No, sir, not while I was in office.
Q You didn't see the ceremony of marriage performed? A I did not.
Q Do you know who signed this man's petition for this marriage license, do you remember any of the signers? A I don't remember, I don't remember now.
Q You are certain that you issued the license to him? A Yes, sir.

JOEL D. SMITH, being first duly sworn, testified as follows:

COMMISSION: What is your name? A Joel D. Smith.
Q How old are you? A I am 36 years old.
Q What is your postoffice address? A Hudson, I. T.
Q You have heretofore applied to this Commission for enrollment as a Cherokee by intermarriage? A Yes, sir.
Q What is the name of your wife? A Alice Clark.
Q Were you ever married before you married her? A No, sir.
Q Was she ever married before? A No, sir.
Q When were you married to her? A I was married May 27, 1889.
Q Were you married under a Cherokee marriage license? A Yes, sir.
Q Who issued that license to you? A Why Mr. James.
Q What are the names of some of the men who signed your petition for the license? A There's Henry Sutton was one, Alex Sutton.
Q Anybody else? A Johnnie Sutton, and George Sutton, James Starr, Dave Quagoe, Joe Marion England, Sam Ware.
Q What became of this marriage license and certificate? A I don't know.
Q Well what disposition did you make of it? A Well, when he said that he would send it off—

Q Who? A Parson Carter; he would send it off and have it recorded, and then he would send it to me, and I never heard anything of it.
Q Is he living? A No, sir, he's dead.
Q Has your right to enrollment as a citizen by intermarriage ever been disputed? A No, sir.
Q Have you always been allowed to vote at all the elections? A Yes, sir.
Q Has your vote ever been challenged? A No, sir.
Q Have your wife and you been living together continuously since your marriage? A Yes, sir.
Q You are living together at this time? A Yes, sir.
Q Well, have you made an effort to procure a certified copy of this marriage license? A Yes, sir.
Q To whom did you make the inquiry? A To, let's see, it was Alberty I believe is his name.
Q Well, what answer did he give you? A Said he couldn't find nothing of them; wasn't there.
Q Now when you were married did you present this marriage license and certificate to the minister? A Yes, sir.
Q Did he tell you that he was going to send it away and have it recorded? A Yes, sir.
Q Was that the last you heard of it? A Yes, sir that was the last I heard of it.
Q How long has Carter been dead? A Well, I don't remember; he's been dead five or six years.
Q You were married when? A I was married on May 26, 1889.

J. C. STARR, being first duly sworn, testified as follows:

COMMISSION: What is your name? A J. C. Starr.
Q How old are you, Mr. Starr? A 31 years old.
Q Your postoffice address? A Vinita, I. T.
Q Are you acquainted with the applicant in this case, Joel D. Smith? A Yes, sir.
Q How long have you known him? A I have known him for a great many years.
Q Is he a Cherokee or a white man? A He's a white man.
Q He claims his right by intermarriage, does he? A Yes, sir, I knew him long before he was married.
Q Do you remember about when he was married? A Married somewhere about 1889.
Q Do you know whether or not he ever procured a Cherokee marriage license; state what you know about that, if anything? A I know that he presented a petition to my father to sign; that is, an application.
Q For the license? A Yes, sir, it was a recommendation from the citizens of the country, and my father signed it.
Q Well, do you know whether or not he was married in accordance with the license that was issued to him under that application? A He was married sometime after that; but I never saw the license; I don't know about that.
Q Have you ever heard his right to enrollment as a citizen by intermarriage disputed prior to this time? A No, sir, never has been disputed, and he has always been recognized as a citizen of the Cherokee Nation since that time.
Q Since his marriage? A Yes, sir.
Q You know of your own knowledge that your father signed this application? A Yes, sir.

—0—

Arthur O. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he re-

ported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur L. Cessinger

Subscribed and sworn to before me this 24th day of April, 1902.

L. J. Kerstu
Notary Public,

Cherokee D 356

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joel D. Smith for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N .

-o-o-o-

The record in this case shows that on September 19, 1900, Joel D. Smith appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation. Thereafter on October 3, 1900, at Vinita, Indian Territory, there was additional testimony taken in the matter of this application. And later on February 25, 1902, at Muskogee, Indian Territory, further testimony was submitted, and again on April 22, 1902, at Muskogee, Indian Territory, there was supplemental testimony taken by this Commission. Application was also made for the enrollment of his wife, Alice Smith, as a citizen by blood of the Cherokee Nation, but as she is listed for enrollment on Cherokee Roll Car Field No. 3053, her case is not passed upon at this time.

The evidence shows that Joel D. Smith was married in accordance with Cherokee law on the 27th day of May, 1889, to one Alice Clark, a citizen by blood of the Cherokee Nation, and who is identified on the Cherokee Authenticated Tribal Roll of 1880. Joel D. Smith is identified on the Cherokee census roll of 1896 as "Joe D. Smith," and has lived in the Cherokee Nation continuously since 1889. His wife has been a resident therein all her life. Documentary proof of his marriage was not obtainable, but the testimony of competent witnesses in this case is deemed sufficient to establish said marriage.

The authority of the Commission herein is defined in Paragraph 1, Sec. 21, of the Act of Congress, June 28,1898. (30

State., 435).

It is the opinion of this Commission that Joel D. Smith is lawfully entitled to be enrolled as a citizen by intermarriage of the Cherokee Tribe of Indians in Indian Territory, and that the application for his enrollment as such should be granted, and it is therefore so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

JUN 9 - 1902

Commissioner.

C. R. Breckinridge

Commissioner.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING

Cher. D-356.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of Joel D. Smith for enrollment as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the person above named as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-356.

IN THE MATTER OF THE APPLICATION OF

Joel W. Smith

FOR ENROLLMENT AS

CHEROKEE CITIZENS

A Original testimony - September 19, 1900
B - Mem° of application - " 19, 1900
C - Additional testimony - October 3, 1900
D Notice of final consideration
E Order closing testimony, Feb. 25, 1902

See Cherokee Docket 3063

Cher D 357

Report out of the Interior,
To inform the Dawes Commission,
Vinita, I.T., September 19, 1900.

[illegible]

[illegible] Lewis Cass, being sworn and examined by Commissioner Dawes, testified as follows:

[illegible] your full name? A Joseph C. Lewis Cass.

[illegible] of [illegible]? A Vinita.

[illegible]

[illegible]? A [illegible].

[illegible] to some enrolled [illegible]? A [illegible] children [illegible]? A Yes, sir, I suppose that are, still [illegible] I [illegible]

[illegible]? A [illegible] years.

[illegible]? A [illegible] to [illegible] it.

[illegible]? A Yes, sir.

[illegible] children? [illegible] old.

[illegible] of the [illegible]? A Lewis Cass, [illegible] old.

[illegible] Lewis Cass? A No, sir, [illegible].

[illegible] other [illegible]? A [illegible] I [illegible] it.

[illegible]? A Yes, sir.

[illegible]?

[illegible]?

[illegible]? A Yes, sir.

[illegible]? A I don't know that, some male [illegible] was [illegible] down at [illegible].

[illegible] Lumpkin.

[illegible]? A I don't know [illegible] exactly, I [illegible] sir.

[illegible] Yes, sir.

(Witness [illegible] roll, [illegible] Lewis [illegible] Cass, [illegible] [illegible].)

[illegible]? A [illegible].

[illegible]? A [illegible] Lewis Cass.

([illegible] roll, [illegible] Lewis Cass [illegible], [illegible] [illegible].)

[illegible]? A I don't know [illegible] Cass.

[illegible]? A [illegible] all [illegible].

[illegible]? A I think it is, it [illegible] times.

[illegible] to [illegible] of the roll [illegible] this [illegible]? [illegible] it, [illegible].

Application is made at this time for the enrollment of two children who are said to be orphans, their father being dead, and their mother not having been heard from for 8 years. The father is identified on the roll of 1880, and also on the roll of 1896 as a native Cherokee. The mother of these children died before the roll of 1896 was made, and her relationship to the father of these children is

not established by any testimony at this time. Children are identified on the roll of 1896 somewhat corresponding to these children in age, but under wholly different names, and no evidence is offered at this time to show that the children were ever known or called by [illegible] that they are supposed to have on the roll. For the reason, the foregoing children, Vera and Lorin C. Battlingcourt, [illegible] case, and the application is denied to procure more accurate information [illegible] it to the Commissioner [illegible] time.

[illegible] duly [illegible] to the [illegible] the children [illegible] the [illegible] the [illegible] of the [illegible].

Bruce B. Jones

[illegible] this the [illegible] of September, 1900.

C. A. Bruce

[illegible].

357

OM

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

CO

FILED
9 1901

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 1st 1901.

Supplemental testimony in the Cherokee Doubtful case #557.

JOSEPH RISINGFAWN, being first duly sworn by C. R. Breckinridge testified as follows:

Q What is your name? A Joseph Risingfawn.
Q What is your age? A 39.
Q What is your post office address? A Afton.
Q What are you, a Cherokee? A Yes sir.
Q Full blood? A No sir, about three quarters.
Q Are you not already enrolled by this Commission? A Yes sir.
Q What is it you want to have done now? A It is a couple of my brothers children that I want to get fixed up.
Q What are the names of these children? A Vura Rattlingourd
Q How old is that child? A She is nine years old last April.
Q Give me the name of the other child? A Loren C. Rattlingourd.
Q How old is this child? A He will be eight pretty soon.
Q Give me the name of the father of these children? A William Rattlingourd.
Q Is he dead? A Haven't seen him lately, he was living here a few years ago, and I don't know what has become of him.
Q What was he, Cherokee? A Yes sir, same as I am three quarters.
Q About how old would he be now if he were living? A I expect he would be about 43, I guess.
Q You say he lived here about how many years ago? A About four years ago.
Q Where was he born? A In this district, in the Cherokee Nation.
Q Where did he live up to the time he left? A In the Cherokee Nation, on Grand river.
Q Did he live in the Cherokee Nation all his life? A I don't know that exactly.
Q Was he any kin to you? A Yes sir my half brother.
Q Did you ever hear of his living anywhere else except in the Cherokee Nation? A Not up to the time he left four years ago.
Q Give me the name of the mother of these children? A Lizzie.
Q Is she living? A No sir she is dead.
Q How long has she been dead? A Five or six years
Q What was she, Cherokee or white? A I can't tell you some say she was Cherokee ad some say she wasn't.
Q How old would she be if she were living now? A I can't tell you that; I suppose she would be about 37 from the looks of her.
Q When did she and your half brother William Rattlingourd marry? A Let me see, I expect it has been about ten years ago I guess.
Q Was William Rattlingourd ever married before he married this woman Lizzie? A I don't know.
Q Was this woman Lizzie ever married before she married your half brother William? A I don't know .
Q How do you know that this man and woman were married; did you see them married? A No sir;I was out where they lived and everybody in the neighborhood where they lived said they were married.
Q How long after they were married was that? A About two years ago.
Q That was some time after she died and after he left the country? A Yes sir.
Q That is all you know about it? A Yes sir.
Q They were not living near you then? A No sir.
Q What was the name of this woman Lizzie Rattlingourd before she married your half brother? A Lumpkins.
Q Do you know the name of her father? A No sir.
Q Do you know the name of her mother? A No sir.

Q Has an application ever been made for the enrollment of these two children, Vura and Loren C. Rattlingourd? A No sir.
Q You make application for them now for the first time do you? A Oh no sir, I made one before.
Q You did? A Yes sir.
Q You applied for these two children here at Vinita on the 18th of September of last year? A Yes sir.
Q It seems that these children are supposed to be a couple of children who are identified on the roll of 1896, but the names were different, and also there was a lack of evidene of marriage betweenthe mather and mother of these children; who can give any information on these subjects?A I cannot find anything.
Q You have just repeated what was said a year ago? A Mr. Bell here he knows something.

L. B. BELL, being first duly sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your name? A L. B. Bell, age 68, postoffice Vinita.
Q Colonel, how long have you lived in the Cherokee Nation? A 68 years.
Q You are one of the Counsel for the Cherokee Nation in these proceedings, are you not? A Yes sir.
Q Do you know this applicant here, Joseph Risingfawn? A Well I am not much acquainted with Joe, I know his half brother Bill Rattlingourd.
Q Where was he born? A Here in the Cherokee Nation- - - he might have been born in '65 in theChoctaw Nation when we were down there.
Q He left here some four or five years ago? A Yes sir, he lived here up to '84 or '8 and then he went up on the Cherokee Strip and run cattle for some years.
Q That was still in the Cherokee Nation then? A Yes sir.
Q Did he ever live any where else except in the Cherokee Nation? A No sir, he worked there and married a daughter of a man named Lumpkins who was an applicant for citizenship, and Bill married his daughter and they lived there until theStrip was sold and he failed to get an allotment and then he moved out and brought his wife and stopped a year or two in the Creek Nation and then his wife died and he come back, his two children and he, and then he married again.
Q When the Strip was sold he left there? A Yes sir.
Q And he came then for perhaps two years to the Creek Nation? A Yes sir
Q And then he came back to the Cherokee Nation? A Yes sir, and then he staid heruntil a few years ago when he left; he was accused of helping to rob the post office at Foyle and he left on that account; if I am not mist,ken he died about six or eight weeks ago in Canadian district; that is where he has been living most of the time sinee he left here. I don't know for certain that he is dead. They were here in 1893 and '4 and enrolled in that Strip payment in '96.
Q Was he ever married before he married his wife Lumpkins? A I think he was.
Q How many times was he married before that? A Can't have been married but once, he was a young fellow.
Q Who was his first wife? A A white woman that lives here in the country.
Q Did he have any children by hat marriage? A No sir.
Q Is she dead? A I don't know, they separated.
Q Was there any divorce obtained? A I dont know, there was some talk of it by the woman-- she married again and then following that Bill married again.
Q I want to know if he ever got a divorce from that first wife? A I dont know, he left here and was gone a while and didn't come back until after his first wife was married again.
Q Do you remember that first wife's name? A I don.t to day, I cant think of it now.
Q Is she dead now? A She married a man named Watt Lothers, I dont know whether she is dead or not.

Q When did you last see her? A 5, 6 or 7 years ago.
Q Have you seen her in the last 5, 6 or 7 years? A As a matter of fact I wouldn't state that I have seen her since she and Bill were living together.
Q Do you know if she was living when he married his wife Lizzie? A I don't know.
Q You don't know that she is dead now? A No sir.
Q Do you know how long after they separated before she married again? A Two or three years.
Q Do you know how long she lived with her second husband? A No sir, it is myimpression she is living with him now.
Q How long was it after William Ratlingourd separated from his first wife before he married his wife Lizzie? A He married Lizzie 10 or 11 years ago- - - it has been 11 years and six- - - it has been 15 or 16 years ago since they parted.
Q Then it was 5 or 6 years after he parted from his first wife before he married his second wife? A Yes sir, he has been here in two with that second wife and with his oldest child, I don't recollect anything about his youngest child.

The 1896 census roll of the Cherokee Nation examined and the names of the two children applied for identified thereon as follows: Page 622 No. 3563 Lizzie Ratlinggourd, Delaware district, three years old.
Page 622 No. 3564 Bunch Ratlinggourd, Delaware district, one and a half years old.

Q Do you know whether this child Nura was ever called Lizzie? A That is the name she went by, he named her after her mother.
Q How about this child Loren G. ? A I dont know, I dont recollect anything about that particular child, I guess my wife would know more about that.
Q You dont recollect any nick name the child had? A No sir.
Q You stated I believe, that you didn't know the name of William Ratlingourd's first wife? A I don't recollect it, I can tell you tomorrow.
Q Were they married at your house? A No sir, they were living there in the neighborhood as married folks, and come to my house as married folks and worked for me as man and wife.
Q That is the wife he had before he married Lizzie Lumpkins? A Yes sir; he lived on the mouth of Spavinaw in this country when he left here three years ago and I suppose that they were married lawfully; don't think there is any doubt at all about that marriage, that first marriage, and I don't think there is any double about the marriage to Lizzie, unless there was that first marriage between them.

By Commissioner of applicant:
If you can get any information regarding the divorce between your half brother William Ratlingourd and his first wife it will be very desirable for you to supply it to the Commission. You should make inquiries of people who knew them and see what you can find out about it.
(By Commissioner of Mr. Bell)
Q Did you ever know Lizzie Lumpkins, the second wife of William Ratlingourd? A I have seen her.
Q Was she recognized by the community as the wife of William Ratlingourd A Yes sir. I have been up to his house in the settlement where he lived with her.

+ + + + + +

This will be filed as additional testimony in Cherokee Doubtful case No 357.

Chas. von Weise, being sworn states upon his oath that as stenographer in the Commission to the five Civilized Tribes he reported in full all the proceedings in the above case and that the foregoing is a full true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 24 of October, 1901.

Commissioner.

D357

B. 357.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Joseph S. Risingfawn for the enrollment of Vura and Lorin C. Rattlingguard as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 6, 1902, that this application would be taken up for final consideration by the Commission on the 25th day of February, 1902, and that he could on said day appear before the Commission either in person or by attorney, when an opportunity would be given him to introduce any additional testimony affecting this application. Receipt has been acknowledged of the Commission's letter. The said Joseph S. Risingfawn called three times and fails to respond. The case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, June 27th, 1902.

In the matter of the application of Vura Rattlinggourd for the enrollment of herself and brother, Lorin C. Rattlinggourd, as citizens by blood of the Cherokee nation.

Supplemental to D357.

Testimony in behalf of Applicant.

L. B. Bell, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name? A. L. B. Bell.
Q. What is your post office address? A. Vinita.
Q. What is your age? A. I am 64 years old.
Q. What is your profession, Mr. Bell? A. Well, I have been practicing law but retired from business the last two or three years.
Q. You represent the Cherokee freedmen? A. In the Freeman busines I am new.
Q. Do you know a person by the name of William or Bill Rattlinggourd? A. Yes, sir; I knew a Cherokee by the name of Bill Rattlinggourd.
Q. Do you know whether he was a Cherokee citizen? A. Yes, he was so recognized. He was born and raised in the country here.
Q. Do you know whether he was ever married? A. Yes, sir; he had two women that I know of. He didn't have ~~xxxx~~ them both at once.
Q. Did you know his first wife? A. Yes, sir; his first wife.
Q. Do you know whether she was living or dead when he married his second wife? A. I don't think she was dead.
Q. Do you know his second wife? A. His second wife was Miss Limpky.
Q. She is the mother of these children? A. Yes, sir.
Q. Do you know whether he was married to her? A. Not any more than I know he brought her to my house and claimed her as his wife. I was at his home in 189——during this payment, 1894, He came over there with her to draw his money.
Q. Of your own knowledge do you know whether he ever held her out as his wife or introduced her as his wife?
A. He brought her to my house and introduced her as his wife, he introduced her to my wife as his wife.
Q. Introduced her to your wife as his wife? A. Yes, sir.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 17. day of July, 1902.

P. P. Rutter
Notary Public.

Cherokee D- 387.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Joseph S. Risingfawn for the enrollment of Vura Rattlinggourd and Lorin C. Rattlinggourd as citizens by blood of the Cherokee Nation.

D E C I S I O N

The record in this case shows that on September 19, 1900, Joseph S. Risingfawn appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of Vura and Lorin C. Rattlinggourd as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 1, 1901, and at Muskogee, Indian Territory, on June 27, 1902.

The evidence shows that the applicants are the minor children of William Rattlinggourd and Lizzie Rattlinggour d (formerly Lumpkins). William Rattlinggourd is a native Cherokee, and is identified as such, by the name of William R. Geard, on the 1880 authenticated roll of the Cherokee Nation. He and said Lizzie Rattlinggourd are both identified on the 1894 strip payment roll of said Nation. Vura Rattlinggourd is also known as Lizzie Rattling-gourd, and by that name is identified on the 1894 strip payment roll, and as a native Cherokee on the 1896 census roll of said Nation. Lorin C. Rattlinggourd is identified, by the name of Dunch Rattling-gourd, on the said 1896 census roll as a native Cherokee.

It is considered established by the oral evidence in this case that William Rattlinggourd and Lizzie Rattlinggourd (formerly Lumpkins) were married according to the tribal laws governing marriages in such cases.

There is some evidence to the effect that William Rattling-gourd had a former wife living, from whom he had not been divorced, at the time of his marriage to his said wife, Lizzie. Section 692 of the 1892 Compiled Laws of the Cherokee Nation, provides as follows:

> "All marriages which are herein prohibited on account of consanguinity between the parties, or on account of either of them having a former husband or wife then living, shall be absolutely void in this Nation, without any judgment of divorce or other legal proceeding; provided, that the issue from such unlawful marriage shall nevertheless be legitimate."

It further appears that the father of the applicants resided in the Cherokee Nation all his life up to 1897, at which time he disappeared, and is now said to be dead; that the applicants have resided in the said Nation from the several dates of their birth up to and including the date of the application herein.

No. [illegible]

It is therefore the opinion of this Commission that Vera Hutchinggard and Earle G. Hutchinggard should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the proviso clause of section 21 of the act of Congress, approved June 28, 1898, (30 Stats., 495), and it is so ordered.

CONCURRING IN THE FOR GOVERNOR VERDIN.

(SIGNED) Tams Bixby
Acting Commissioner.

(SIGNED) T. B. Needles,
Commissioner.

(SIGNED) C. R. Breckinridge,
Commissioner.

Dated at Muskogee, Indian Territory,
this NOV 20 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-357.

Muskogee, Indian Territory, November 26, 1902.

W. W. Hastings,

Attorney for Cherokee aNation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 20, 1902, granting the application of Joseph S. Risingfawn for the enrollment of Vura Rattlinggourd and Lorin C. Rattlinggourd as citizens by blood of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-177.

Decision

IN THE MATTER OF THE APPLICATION OF

Vina Rattlingguard et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 19. 1900
B. Proof of application " 19. 1900
C. Supplementary testimony 10/1/01
D. Notice of final consideration
E. Order closing testimony Feb. 25, 1902

See Cherokee Jacket 3049

Cher D 358

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 18, 1900.

In the matter of the application of Albert H. Dawson for enrollment of himself, wife and children, as citizens of the Cherokee nation, said Dawson being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A Albert H. Dawson.
Q What is your age? A 26.
Q Your postoffice address? A Afton.
Q What district do you live? A Delaware.
Q Are you a recognized citizen of the Cherokee nation? A Yes.
Q By blood? A Yes.
Q What degree? A 1/16.
Q For whom do you apply? A Myself, wife and children.
Q What is the name of your father? A Riley.
Q Is he living? A Yes
Q What is the name of your mother? A Katherine.
Q Is she living? A Yes.
Q What is the name of your wife? A Sarah F.
Q Is she a citizen by blood? No sir.
Q What was her name before you married her? A Abbott.
Q When were you married? A '94.
Q Who were you married by? A A Preacher named Edwards.
Q Is he living? A I could not say.
Q What are the names of your children? A Ralph H. aged 5 years.
On '96 roll, page 462, number 921, as Ralphard Henry.
Q Next child? A Alfred, 2 years old.
Q Next? A Cecil, 7 months old.
Q Have you any proof of birth as to those last two children? A Yes.
Applicant presents satisfactory proof of birth as to his two children Alfred and Cecil who were born after the '96 roll was compiled.
Q What proof have you of your marriage? A My father is here. He saw me married.
Q Can't you get a certificate? A When I was married they were not required.
Q Didn't the preacher give you a certificate? A Yes, but I got it lost.

RILEY DAWSON, being sworn, testified:

Q What is your name? A Riley Dawson.
Q Your age? A Over 60.
Q Your postoffice? A Afton.
Q Are you a recognized citizen of the Cherokee nation? A Yes.
Q Do you know Albert H. Dawson? A Yes.
Q What relation is he to you? A My son.
Q Do you know his wife, Sarah? A Yes.
Q What relation do they bear to each other? A Man and wife.
Q Do you know whether they were married? A Yes.
When? A October, '94.
Q Were you present at the marriage? A Yes. They were married at my house.
Q By a minister? A Yes.
Q Have they been living continuously since that time as man and wife?
A Yes.
Q Live together now? A Yes.

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DEPARTMENT OF THE INTERIOR/

APPLICANT CONT'D:

Q Are you on the roll of '80? A No sir.
Q By what right do you claim citizenship? A I was admitted.
Applicant presents certificate of admission issued from the Executive Office of the Cherokee Nation, Tahlequah, under date of 18th of November, 1896, certifying that Rial Dawson was admitted to citizenship on the 11th day of January, 1883, said certificate being signed by W. H. Mays, Assistant Executive Secretary, and issued under great seal of the Cherokee Nation.
Q Is the Rial Dawson mentioned in this certificate your father?
A Yes.
Q Was your mother admitted at the same time? A She was a white woman.
Q What is the date of your birth? A June 8, 1874.
Applicant on '96 roll, page 462, number 920.
Applicant,s wife on '96 roll, page 569, number 138.
Q Your mother was a white woman? A Yes.

The name of Albert H. Dawson appears upon the census roll of '96, also the name of his wife, Sarah F. He avers that he was married to Sarah F. Abbott, a non-citizen, in the year '9 4, and makes satisfactory proof as to his marriage. The name of his child, Ralph H., is found upon the census roll of '96, and he presents satisfactory certificates of birth as to the two younger children, Alfred and Cecil, who were born after said rolls of '96 were compiled. He presents a certificate more fully described in the testimony, certifying that his father, Rial Dawson, was admitted on the 11th day of January, '83, he being a minor at that time about 10 years of age. He presents no satisfactory proof as to his own citizenship and no certificate of admission, but claims admission as being the child of the said Rial Dawson, but was born before said Rial Dawson was admitted to citizenship, consequently final judgment as to the application of Albert H. Dawson, and his wife, Sarah F., and his children Alfred and Cecil, will be suspended and their names will be placed upon a doubtful card.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B McDonald

Subscribed and sworn to before me this 21st day of September, 1900.

C A Bruce

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, July 21st, 1902.

In the matter of the application of Albert H. Dawson for the enrollment of himself and children--Ralph H. Dawson, Alfred Dawson and Cecil Dawson--as citizens by blood of the Cherokee nation and for the enrollment of his wife, Sarah F. Dawson, as a citizen by intermarriage of the Cherokee nation.

Supplemental to D-358.

Appearances:
A. S. McKennon for Applicants,
W. W. Hastings for Cherokee nation,

ALBERT H. DAWSON, being duly sworn, testified as follows:--

Examination by Mr. McKennon.

Q. What is your name? A. Albert H. Dawson.
Q. What is your age? A. 28.
Q. Where do you live? A. Afton, Indian Territory.
Q. How long have you lived there in the Indian Territory, in the Cherokee nation? A. 16 years.
Q. Have you lived there continuously? A. Yes, sir.
Q. What is your wife's name? A. Sarah F. Dawson.
Q. What are the children's names? A. Ralph, Alfred--Cecil is dead.
Q. Where did you marry your wife? A. Afton.
Q. She has lived with you continuously? A. Yes, sir.

Examination by Mr. Hastings.

Q. When did you move to the Cherokee nation? A. '86.
Q. Have you lived here continuously? A. Yes, sir; all the time.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 21st, day of July, 1902.

F. D. Reuter
Notary Public.

(DAWSON CASE)
Cherokee D-558.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 3, 1903.

In the matter of the application of Albert H. Dawson for the enrollment of himself and children, Ralph H., Alford, and Cecil Dawson, as citizens by blood, and forthe enrollment of his wife, Sarah F. Dawson, as a citizen by intermarriage of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name, postoffice and age? A Albert H. Dawson, postofficeAfton, age 28.
Q You are a citizen by blood of the Cherokee Nation? A Yes sir.
Q You are the same Albert H. Dawson that made application to the Commission on September 19, 1900, for the enrollment of your wife as an intermarried citizen, and yourself and children as citizens by blood, are you? A Yes sir.
Q What is your wife's name? A Sarah F. Dawson.
Q Is she living at this time? A Yes sir.
Q When were you and she married? A October 3, 1894.
Q Were you ever married prior to your marriage to your wife, Sarah? A No sir.
Q Was she ever married prior to her marriage to you? A No sir.
Q You her first husband and she your first wife? A Yes sir.
Q Have you and Sarah F. lived together as husband and wife all the time since your marriage up until the present time ? A Yes sir.
Q You never have separated? A No sir.
Q She has never been married to any other man sincesho married you? A No sir.
Q You were living together as husband and wife on the first day of September, 1902? A Yes sir.
Q What are the names of your children? A Ralph H., and Cecil A.; Cecil A. is dead. Alford.
Q Are all these children living at this time? A Yes sir, except Cecil.
Q Has Ralph H. and Alford lived in the Cherokee Nation all the time since they were born? A Yes sir.
Q When did Cecil die? A The 22nd of January a year ago.
Q In January, 1901? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger.

Subscribed and sworn to before me this 18th day of October, 1903.

B. O. Jones
Notary Public.

CHEROKEE. No 358

Sarah F
Robert H Dawson et al

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COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1906

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 19, 1900.

In the matter of the application of David S. Cumming for the enrollment of himself, wife and one child as citizens of the Cherokee Nation; said Cumming being sworn to Commissioner C. H. Breckinridge, testified as follows:

Q Give me your full name? A David S. Cumming.
Q How old are you? A 48.
Q What is your post office? A Adair.
Q What is your district A Cooweescoowee.
Q Who is it you want to have put on the roll? A Myself andone child
Q Minor child? Yes, sir.
Q Do you apply for yourself as a Cherokee by blood? A By adoption.
Q Have you a marriage license and certificate? A Yes, sir.
Com'r Breckinridge:--The applicant presents a duly authenticated Cherokee Marriage license and certificate; the license issued by the Clerk of Cooweescoowee district, January 16, 1891, authorizing his marriage to Mrs. Flora A. Cumming nee Flora A. Rogers, and the certificate shows that the ceremony was performed on January 17 1891, by the Reverend E. Wanford Clard. This is filed herewith.

Q Is your wife to whom you were married at that time living? A Yes, sir.
Q She was a Cherokee woman was she? A Cherokee by blood.
Q You are not applying for her enrollment? ANo, sir.
Q Have you and she separated? A Yes, sir, she has married again.
Q When did you separate from her? A In 1893.
Q Did you procure a degree of divorce? A Yes, sir.
Q Have you a copy of that decree? A No, sir, I did not bring it with me; the lawyer is here if you need an evidence.
Q Was the divorce granted to you or your wife? A Granted to me I applied for it.
Q Have you a copy at home? Yes, sir.
Q You know whether it was granted to you if you got the degree.?
A Yes, sir, it was granted to me, with the custody of the child.
Q You have the custody of the child now have you? Yes, sir.
Q Have you married since that divorce from your wife in 1893?
A Yes, sir.
Q Let me see your license? A I have not it with me.
Q You married an indican? A She was a Shawnee.
Q That is the date of your second marriage? A In April, 1893.
Q And what is the name of your present wife? A I have not a wife now.
Q You are not living with her? A No, sir.
Q What is the name of the woman you married in 1897? A Ida A. Garetson.
Q She is Shawnee? A Yes, sir.
Q Haveyou a divorce from her? A Yes, sir.
Q Have you married since that divorce? A No, sir.
Q When did you get that divroce from her? A I do not remember, it was in 1899.
Q You have not re-married? A No, sir.
Q Give me the name of your child? A Maggie E.
Q How old is that child? She will be 17 the 13th of next month.
Com'r Breckinridge:--The applicant presents a duly authenticated certificate to Cherokee citizenship, showing that on July 3, 1888 there was admitted by the Cherokee Commission Flora A. Cumming and also her daughter, Maggie E. Cumming. This is accepted as satisfactory evidence of that fact.
Q This relates to the admission of your first wife, and also for the daughter for which you apply now does it? A yes, sir.
Q Ida A. Garetson is she on the roll of 1880? A I suppose she is.
Q Her maiden name was Purcell? A Yes, sir.
Q How old is that second wife at this time? A 37 or somewhere along there.

Q How old is your first wife at this time? A She was born in 1868.

Q Your wife was not married in 1896? A I think she married in the Fall of 1896.

1896 enrollment; page 305, #2197, Flora . Martin, Delaware.
1896 enrollment; page 1[illegible], #617, Mary Jane Cumming, Cooweescoowee.
1896 enrollment; page 2[illegible], #20[illegible], David . Cumming, Cooweescoowee.

Q Your daughter has lived in the Cherokee Nation ever since your admission in 1888? A Yes, sir; she did not come here until 1890.

Q She has lived here ever since 1890? A Yes, sir.

Comr Breckinridge:--The applicant applies for the enrollment of himself and child. His child is shown to have been admitted to citizenship by the Cherokee Commission in 1888. She is living at this time and is identified on the roll of 1896. She has continued to live in the Cherokee Nation, and she will be listed now for enrollment as a Cherokee by blood.

The applicant basis his claim to enrollment to his marriage to a Cherokee wife. His first wife is shown to have been admitted by the Cherokee Commission in 1888, and she is identified with her upon the roll of 1896; They were separated in 1903 and he states a divorce was procured, but he does not present the decree of divorce. His claim would be in doubt until a satisfactory examination could be made of the facts of this divorce. In addition to this he is shown to have married a second wife in 1897, however, he does not present a marriage license or certificate at this time. He claims that his second wife is a Cherokee woman, but she cannot be identified upon the roll of 1880 or the roll of 1896, therefore, according to the present evidence, it seems probable that whatever rights he may have possessed he lost by his second marriage. He is divorced at present from his second wife, but does not present a decree of the second divorce. The applicant has continued to live in the Cherokee Nation ever since his first marriage. The applicant at this time will be placed upon a doubtful card for further consideration, and the result when finally reached, will be made known to him.

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I. O. Rosson, being first duly sworn, states that he is stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 2nd day of September, 1910.

Commissioner.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 22 1900

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 20th, 1900.
SUPPLEMENTARY - TESTIMONY.

IN THE MATTER OF THE APPLICATION OF David Stone Cunning - Supplementary Testimony - . David Stone Cunning, being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A David Stone Cunning.
Q What is your age? A Forty eight.
Q What is your Postoffice? A Adair.
Q You want to offer some supplementary testimony? A I just want to correct my card from the Doubtful list.
Q This relates to your own enrollment? A Yes sir.
Q What testimony do you want to offer? A Mrs. Garrison, the woman I was divorced from the second time has gone through all right.
Q What evidence do you want to offer? A I want my Doubtful Card corrected to a correct card.
Q Do you offer any paper here? A Yesterday, I was admitted as far as that was concerned, but was put on the doubtful roll on account of a second marriage, and the woman of that second marriage has now gone through on the regular roll.
Q Do you want to show something about the status of that woman? A I claim I come on the correct roll on account of her getting on.
Q What evidence are you offering here? A I can bring the woman in, if you want her.; I want to establish that the woman I was divorced from the second time, is on the correct roll.
Q What is the name of that woman? A Alice Purcell.
Q She is on the roll of 1880, as Alice Purcell? A Yes sir.
Q You want to present a copy of the decree of divorce? A Yes sir.
Q Is this (indicating paper) the decree of divorce?
A Yes sir; a copy.
Q Do you want to present this in your case? A Yes sir.
The applicant now presents a copy of the decree of divorce, granted in the case of D. S. Cunnings versus Flora B. Cunnings, and this will be filed with the supplementary evidence in this case.
Q Is there any other evidence you offer? A I claim citizenship by virtue of that paper (indicating paper.
Q This Flora B. Cunnings, you say is your wife? A She was my wife.
Q Were you married to her prior to this admission to citizenship? A Yes sir.
Q Then, were you married to her after this admission, according to Cherokee law? A Yes sir.

Witness presents at this time an official certificate of admission to Cherokee citizenship of Flora B. Cunnings, under date of July 2nd, 1888: This is recognized as official evidence of her admission at that time.
Q Now you claim that this woman, Flora B. Cunnings is the woman you were married to in accordance with Cherokee law, after you were admitted to citizenship? A Yes sir.
Q Is that all you want to offer? A Yes sir.
The undersigned, being sworn, states that he stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 22nd day of September, 1900.

COMMISSIONER.

"R"

D 359

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 25, 1902.

In the matter of the application of David S. Cumming, for the enrollment of himself as a citizen of the Cherokee Nation:

Appearances:
W. D. Humphrey, of Vinita, I. T., representing W. H. Kermegay, of Vinita, I. T., for applicant;
W W Hastings, for the Cherokee Nation.

DAVID S. CUMMING, being sworn and examined, testified as follows:

Q What is your name ? A David S. Cumming.
Q Post office address ? A Adair.
Q Are you an applicant before this Commission for enrollment as a citizen of the Cherokee Nation ? A Yes sir, I was.

Examined by Mr. Humphrey:

Now, in the notice we have he is required to supply the Commission with a certified copy of his marriage license and decree of divorce from Ida A. Garretson. Since the Commission has specified these matters, the papers are offered in evidence.

The Commission: There is offered in evidence by the attorney for applicant certified copy of the marriage license issued by Joe M. Lahay, Clerk of Cooweescoowee District, Cherokee Nation, on the 21st day of April, 1897, authorising the marriage of D. S. Cumming, a citizen of the Cherokee Nation, and Mrs. Ida A. Garretson a citizen of the Cherokee Nation; and a certificate showing that they were united in matrimony by Martin A. Clark, a minister of the gospel on the 22nd day of April, 1897; and the same is filed herewith.

There is also offered in evidence a certified copy of a decree of divorce between Ida A. Cumming and D. S. Cumming; and the same is filed herewith.

Witness further examined by Mr. Hastings:

Q Are you married at present ? A Yes sir.
Q What is your present wife's name ? A Martha Josephine.
Q What was her maiden name ? A Neblock. She was a widow when I married her.
Q A white woman ? A Yes sir. What I wanted to get down was that her name was not Neblock when I married her.
Q When did you marry her ?
A The 14th day of last May, 1901.

Mr. Hastings: The Cherokee Nation desires to cite Section 666 of the Compiled Laws of the Cherokee Nation (1892).

The Commission: Is there any further statement you desire to make relative to this case ?

Mr. Humphrey: If the court please, we object to that testimony because he asks the witness whether or not he was married before asking the date of that marriage; and that he was married since the Act of Congress making all citizens of the Cherokee Nation citizens of the United States; and any marriage with a white woman would not affect his citizenship.

The Commission: Is that all ?

Mr. Humphrey: This is brought on us rather as a surprise and I notice he is notified only to supply the Commission with a certified copy of the marriagelicense and a certified copy of the decree of divorce; and if you will notice in the remarks at the close of the testimony given, it was on another day, there the Commission seems to be satisfied on every point except as to the marriage to this Ida A. Garretson and the divorce from her. Then on further in the notice we find this : "You are further notified that the representatives of the Cherokee Nation will also at the time be afforded an opportunity to introduce testimony tending to disprove the right of the applicant to be enrolled as a citizen of the Cherokee Nation, but said representatives of the Cherokee Nation will be required to notify you before they will be permitted to do so". They did not notify us of any intention to spring such a surprise on us along that line.

Mr. Hastings: The representatives of the Cherokee Nation fail to see wherein the applicant can be surprised when the testimony brought out is only in the cross examination of the applicant himself, who took the stand. He certainly was in possession of all the facts of which he testified at the time he was notified; and he took the stand himself, and this was a proper examination of the applicant while upon the stand. Attention is invited to that clause of Section 21 of the Act of Congress commonly known as the "Curtis Bill", wherein it is said that the Commission shall enroll all intermarried white persons who have a right to be enrolled under the laws of the Cherokee Nation; and therefore Section 666 hereinabove cited is certainly very applicable to this case.

The Commission: Do you submit this case or do you want to make any further statement ?

Mr. Humphrey: This case was submitted in September, 1900. The evidence brought out upon the cross examination of the witness at this time is not proper evidence in the case for the reason that it comes up subsequent to the time when the applicant herein made his application; also subsequent to the time when all citizens of the Cherokee Nation were made citizens of the United States. We would ask time to brief this proposition, and submit it on brief.

The Commission: The objection of the attorney for the applicant will be duly noted, and the testimony considered for what it is worth. The attorny for the applicant will also be allowed ten days in which to file a brief, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

Do you submit this case now to the Commission for final decision based upon the testimony now on file ? A Yes sir.

Attorney for the applicant, and the representative of the Cherokee Nation submit this case to the Commission for final consideration, and the same is ordered closed, and is reported to the Commission for its final decision based upon the evidence now on file, in addition to the brief to be filed by the attorney for the applicant.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

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Department of the Interior.

Commission to Five Civilized Tribes.

In the Matter of the Application of David C. Jennings for enrollment as a citizen of the Cherokee Nation.

David C. Jennings claims that he is entitled to enrollment as a citizen of the Cherokee Nation by reason of citizenship acquired by marriage to _____, who is a Cherokee citizen by blood, which marriage was entered into in accordance with the laws of the Cherokee Nation. On the 25th of February, 1902, the applicant was given notice to appear before the Commission to the Five Civilized Tribes and to supply the commission with a copy of the marriage license and the decree of divorce by which he became married to and separated from his wife aforesaid. In obedience to said notice the applicant appeared and supplied the Commission with the copy of marriage license and decree of divorce as required. On that occasion a representative of the Cherokee Nation questioned the applicant concerning a certain marriage between himself and a white woman, which according to the evidence thus obtained took place sometime in April of 1901. The attorney of the applicant objected to the introduction of evidence showing any act on his part subsequent to the filing of his application for enrollment that might have had a tendency to forfeit his citizenship if committed prior to his application. Also objection was made to the applicant's being called upon to inform the Commission of any act on his part occurring since the act of March 3, 1901, making all citizens of the Indian Territory citizens of the United States that might prior to said act have militated against his acquired rights.

Counsel for the Cherokee Nation claimedthat the applicant under Section 636 of the laws of the Cherokee Nation forfeited his right to citizenship by the last mentioned marriage. Sec. 636 of the compiled laws of the Cherokee Nation, Ed. 1892 is as follows:-

" Sec. 636. Should any man or woman a citizen of the United States or of any foreign country become a citizen of the Cherokee Nation by inter-marriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall con-

time to enjoy the rights of citizenship unless he or she shall marry a white man or woman or person as the case may be having no rights of Cherokee citizenship by blood; in that case all of his or her right required under the provisions of this act shall cease."

Under this law the only forfeiture provided for comes to him who acquired citizenship by marriage and who after the decease of the Cherokee wife or husband as the case may be, marry some person having no right to Cherokee citizenship. Under this section before any ~~law~~ loss of citizenship can be visited upon an adopted citizen, the decease of such adopted citizen's wife or husband must be shown as well as the subsequent marriage. In t is case there is no evidence of the decease of the applicant's Cherokee wife nor is there any evidence that he as the surviving husband of his Cherokee wife married a person having no right to citizenship. On the otherhand the applicant was not a widower at the time of his last marriage but was a divorced person. Hence, it is plain that his case is not within the statute, said statute including only widows and widowers, and this being a penal statute is not to be extended so as to embrace others not included in the classes mentioned. Construing section 222 with section 2309, which is as folow "The circuit court shall have authority to hear and determine all cases that may be brought before it by any person or by the Solicitor of the District wherein it may be alleged that a citizen of the United States or of any other government adopted by inter-marriage under the laws of the Cherokee Nation has forfeited his right to citizenship in said Nation by acts which declare such forfeiture . Proceedings in such cases shall be by citation if the party be resident in the Cherokee Nation or by thirty days notice of such proceedings in the Cherokee Advocate and be conducted as are civil suits before such courts. On the finding of a verdict by the jury against such person it shall be the duty of the clerk of the court to notify the principal Chief of such finding and it shall be the duty of the Principal Chief to make known such finding to and call on the United States Indian Agent for the removal of such person beyond the limits of the Cherokee

Nation. It shall not be lawful thereafter for any clerk to issue a marriage license or permit to reside in the Cherokee Nation in any capacity whatever to any person so declared to have forfeited his right to citizenship in the Cherokee Nation." it will be seen that the law is highly penal, providing for a prosecution incurring a loss of rights, and arrest and removal beyond the limits of the Cherokee Nation. Again, referring to Sec. 666 it is elementary law that where one or class of persons is designated as ~~such~~ subject to the penal fines of a statute all persons not within such class are to be deemed exonerated.

If the Commission is to assume the functions of the Circuit Court of the Cherokee Nation, which courts alone prior to the Curtis law were authorized to hear and determine such cases as the one under consideration, then before it can declare a forfeiture of this applicant's right as an adopted citizen of the Cherokee Nation it must find his case strickly within the statute and that he "has forfeited his rights in said Nation by acts which declare such forfeiture."

It is contended by the applicant that if the law aforesaid was ever applicable to such a case as his that since the passage of the acts of the Congress, of June 2, 1897, and of June 28, 1898, and of Jan. 2, 1901, it is powerless of effect his rights, and that if he was entitled to be enrolled on either of said date, he is still entitled to enrollment. Every person whose status was that of a Cherokee citizen according to the Cherokee law when the act of June 2, 1897 became effective, to-wit; on Jan. 1, 1898, remained a citizen so far as the Cherokee law is concerned, for on that date the Cherokee law ceased to operate upon the Cherokee citizen and the only law that could permit a forfeiture of his citizenship is the law of the United States, and there is not any law of the United States allowing a forfeiture. On the contrary the United States law is explicit in the act of June 2, 1897, and says from January 1, 1898, the Cherokee law shall cease to operate. And in the act of June 28, 1898, Congress inserted a provision in the Curtis bill to the effect that the tribal

laws should not be enforced either at law or in equity by the courts of the United States in the Indian Territory. This provision alone accounts to Watkins, West Ill. L. Compass Court reports, Lawyers' Co-op. Ill. Law 22, p. 225, nullified those laws, which state laws only supplant if not repeal. And the courts of the Indian Territory have held that said act nullified the tribal laws. See George vs. Todd, et al., 24. S. W. Rep. p. 215. Also Vivons vs. Vivons, 24 S. W. Rep. p. 215.

The act of June 2nd,1901 is as follows,"Be it enacted by the Senate and house of Representatives of the United States of America in Congress assembled,That section six of chapter one hundred and nineteen of the United States Statutes at Large ,numbered twenty-four ,page three hundred and ninety is hereby amended as follows ,to wit;after the words "civilized life" in line thirteen of said section six insert the words "and every Indian in the Indian Territory". The amended law is as follows "That upon the completion of said allotments and the patent in fee of the lands to said allottees ,each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws both civil and criminal of the state or territory in which they may reside;and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act ,or under any law or treaty,and every Indian born within the territorial limits of the United States who has voluntarily taken up ,within said limits,his residence separate and apart from any tribe of Indians therein ,and has adopted the habits of civilized life ,and every Indian in the Indian Territory is hereby declared to be a citizen of the United States,and is entitled to all the rights ,privileges and immunities of such citizens, whether said Indian has been or not ,by birth or otherwise ,a member of any tribe of Indians,within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property."

By this law every Indian of the Indian Territory whether an Indian by birth or otherwise, on March 3rd became a citizen of the United States with all the "rights ,privileges and immunities" of such citizens.This act alone without the act of June 6,1897 and the act of June 28,1898 is sufficient to place every former Cherokee citizen beyond the reach of the Cherokee law for acts committed since March 3rd 1901.

as Congress had already adopted the Arkansas statute for the government of United States citizens in the Indian Territory, and under the treaty of 1835, the Cherokees were forbidden to make laws for United States citizens. The applicant in this case acquired his right under the Cherokee law while the Cherokee law was in full force and effect, and as Congress declared explicitly in the act of June 6, 1897, that the Cherokee law should cease to operate after January 1st. 1898, there can be no loss of citizenship by reason of a marriage that took place in April, 1901.

Again, it is apparent from an analysis of section 21of the Curtis act that rights of Cherokee citizens accruing under the Cherokee law prior to the passage of said act, to-wit; on the 28th of June, 1898, are fixed and unchanged, as the law speaks from that date. Under that section of thelaw it is provided that the Commission shall investigate the rights of all persons found on any other roll than the roll of 1880, and not on the roll of 1880, and only omit the names placed on such roll by fraud or without authority of law. Such names as are found on the Cherokee roll of "lawful right" are to be enrolled. The applicant's name is on the Cherokee roll and was there of lawful right at the date of the Curtis law, it was there of lawful right when the Cherokee law cease to operate, that is, on January 1, 1898; it was there of lawful right at the time he made application to this Commission for enrollment, and the applicant believes therefore it should be by the Commission placedon its rolls.

It certainly is not at this time the policy oftheUnited States to prohibit marriage between white people resident in the Indian Territor as this would seem to be a matter of common right, and no where in the United States law regulating marriage is a marriage between white persons not within the prohibitive degree or age is forbidden. If this is the condition, it is fair to presume that the status of the applicant for enrollment must under the Curtis law be determined as of

that date, as otherwise, if Congress meant to impose forfeiture of the kind insisted upon, it would have said so in express terms, as it is a familiar rule that if by an interpretation of the law a forfeiture accrues, while by another interpretation the forfeiture does not accrue such interpretation will be placed on the law as to avoid the forfeiture. (See Black on Interpretation of Laws, p. 300. and p. 242.)

In support of the proposition that the applicant in this case is not affected by Sec. 220 of the Cherokee law under which the [illegible] ask the Commission to declare a forfeiture of his rights the writer wishes to call the attention of the Commission to Black on Interpretation of Laws where the point is there quite thoroughly and ably in the following language, on page 57 "When a statute makes specific provisions in regard to several objects or cases or objects, but omits to make any provision for a case or object which is analogous to those enumerated, or which stands upon the same reason, and is therefore within the general scope of the statute, and it appears that such case or object was omitted by inadvertence or because it was unanticipated or unknown, it is called a 'casus omissus'. Such omissions or defects can not be supplied by the courts."

Respectfully submitted,

D359

In the matter of the application of David S. Cummings for enrollment as citizen of the Cherokee Nation.

Brief of Applicant

Copy

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes

Muskogee I. T. April 8th 1902.

No. Cherokee D 389.

In the matter of the Application of David S. Cummings for enrollment as a citizen of the Cherokee Nation by Intermarriage.

Brief of the Cherokee Nation.

The applicant claims as a citizen by intermarriage and since his application to be enrolled as a citizen by intermarriage he was divorced from his Cherokee Wife and was married to a white woman in violation of section 666 compiled Lawsof the Cherokee Nation 1892, and since this question hasbeen determined by the Commission numerous times, we do not deem it necessary to submit an extended brief upon the question.

Section 21 of the Curtis bill ~~xxxxxxxxxx~~ charges the Commission in making a roll of citizens of the Cherokee Nation that it shall enroll "such intermarried white persons asmay be entitled to citizenship under Cherokee Law."

Section 666 of the Compiled Laws of the Cherokee Nation, 1892, provides:

"Should any man or woman, a citizen of the United States or any foreign country, become a citizen of the Cherokee Nation by intermarriage and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person (as the case may be), having no rights of Cherokee citizenship by blood; in that case, all of his or her rights ~~xxxxx~~ acquired under the provisionsof this act shall cease."

It is very clear under this section that the applicant is not entitled to be enrolled as a citizen of the Cherokee Nation by intermarriage.

Respectfully submitted,

W W Hastings Jr Co

Attorney for the Cherokee Nation.

Cher
Supp'l to D 359

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 22, 1902.

In the matter of the application of DAVID S. CUMMING, for the enrollment of himself as a citizen by intermarriage, of the Cherokee Nation:

DAVID S. CUMMING, being duly sworn and examined by the Commission, testified as follows:

Q What is your name ? A David S. Cumming.
Q How old are you ? A I am fifty years old.
Q What is your post office address ? A Adair.
Q Are you a white man ? A Yes sir.
Q Are you claiming the right to be enrolled as a Cherokee citizen by intermarriage ? A Yes sir.
Q What is the name of your wife ? A Martha J.
Q Is she a Cherokee by blood ? A No sir.
Q What is the name of the wife through whom you claim your right to enrollment ? A Her name was Flora B. Rogers.
Q When were you married to Flora B. Rogers ? A In January, '93
Q Were you married to her under a Cherokee marriage license ?
A After moving to the Indian Territory we were.
Q When were you married to her under a Cherokee marriage license ?
A It was in 1890, I can't remember the exact date.
Q You said you were married in 1893 ? A I meant 1883.
Q Were you married, then, in 1883 ? A Yes sir, in the State of Missouri
Q Your wife is an admitted citizen ? A Yes sir, she was admitted in 1888, I think it was.
Q Did she come to the Indian Territory in 1888 ?
A No sir, we didn't move until the spring of 1890. She was here in 1888 and selected a place, but we didn't move until 1890.
Q You came here to make your home in 1890 ? A Yes sir.
Q You were married to her under Cherokee law in 1890 ?
A Yes sir.
Q Was she your first wife ? A Yes sir.
Q Were you her first husband ? A Yes sir.
Q That wife is dead ? A No sir.
Q Were you divorced from her ? A Yes sir.
Q When ? A In 1893.
Q Had you been separated long before you were divorced ?
A Yes sir, several months.
Q What was the cause of separation ? A Why she was, I reckon, dissatisfied; she got interested in another man.
Q And left your home did she ? A Yes sir.
Q Did she go off with him ? A Only part of the way. When she left home she went to California, and the man come with her, so I was informed, as far as this place. She come back to that country and is there now.
Q You mean to say that she came to this place with him ?
A I was told that he got on the train at Pryor Creek.
Q You don't know that to be a fact ? A No sir, not from personal knowledge; only from information of others.
Q Did your wife tell you why she left you ?
A Well no, I don't know that she told me. I think she was dissatisfied.
Q Did you ever give her any cause to leave you ?
A Why no, I didn't think I did. I tried to provide for her well.
Q Made proper provision for her ? A Yes sir.
Q Always kind to her ? A I thought I was.

Q You were kind to her ? A Of course I might have, at times been a little hard on her, when I was a little out of temper.
Q But you don't think you gave her just cause to leave ?
A No sir, I don't think I did.
Q She left your home and went to California ?
A Yes sir, and was gone several months.
Q Did she ever come back to you ? A She came back and stayed something over a month, and left again.
Q Has she lived with you since she left that second time ?
A No sir.
Q When did this first separation take place ? A In 1893.
Q Did you ever try to get your wife to come back and live with you?
A Yes sir.
Q Did she refuse to come ? A Yes sir.
Q Did she give you any reason why ? A Well no, I don't know that she did, particularly.
Q Did you have any children by her ? A Yes sir one daughter.
Q Where is that child living ? A She is at Adair.
Q Living with you ? A Yes sir, she has been until the last few days, she married last week.
Q Has she always been living with you up to the time she married ?
A Yes sir.
Q She didn't go with her mother ? A No sir.
Q Then you secured a divorce from her ? A Yes sir.
Q Have you married since you got the divorce ? A Yes sir.
Q Who did you marry ? A She was a widow lady; she was Martha J. Hull when I married her.
Q Is she a Cherokee by blood ? A No sir.
Q Is she a white woman ? A Yes sir.
Q When did you marry her ? A I married her last May a year ago.
Q And you and that wife are still living together ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell.

Subscribed and sworn to before me this November 29, 1902.

B O Jones
Notary Public.

Cherokee D-375.

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

In the matter of the application for the enrollment of David S. Cunning as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on Septe ber 18, 1900, David S. Cunning appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation. The application also included his minor child, but as she is differently classified she is not embraced in this decision. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on September 20, 1900, and at Muskogee, Indian Territory, on February 25, 1902, and October 20, 1902.

The evidence shows that David S. Cunning, a white man, and Flora M. Rogers, a citizen of the Cherokee Nation, admitted to citizenship in said Nation by the duly constituted authorities thereof on July 3, 1888, were lawfully married, under a Cherokee marriage license and in accordance with the laws of the Cherokee Nation, on January 16, 1891. It further appears that subsequent to said marriage and on September 18, 1893, David S. Cunning secured a divorce from his said wife, and thereafter, in May, 1901, he married one Martha J. Hull, a white woman.

Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), provides for the enrollment of Cherokee citizens with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Section 866 of the Compiled Laws of the Cherokee Nation (1892), is as follows:

"Should any man or woman, a citizen of the United States or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person, (as the case may be), having no rights of Cherokee citizenship by blood; in

that case, all of his or her rights acquired under the provisions of this act shall cease."

It is, therefore, the opinion of this Commission that the application for the enrollment of David S. Gunning as a citizen by intermarriage of the Cherokee Nation should be denied, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Acting Chairman.

T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,

FEB - 2 1903

April 8, 1902.

C. D.359.

T. H. Kornegay, Esq.,

Vinita, I. T.

Dear Sir:

Enclosed herewith find a copy of the brief of the Cherokee Nation in case Cherokee D. 359, in the matter of the application of David S. Cummings. Please acknowledge receipt of same, and oblige,

Yours truly,

W. H. KORNEGAY,
ATTORNEY-AT-LAW.

NOTARY IN OFFICE.

VINITA, I. T. April [illegible], 1[illegible].

Mr. J. [illegible] Starr, Eufaula, I. T.

Dear Sir: Yours to hand enclosing copy of the brief of the Cherokee Nation in the matter of the application of [illegible] for enrollment as a citizen of the Cherokee Nation.

Yours truly,

W. H. Kornegay

...OFFICE OF...

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE ENROLLMENT

W. W. HASTINGS, ATTORNEY
J. C. STARR, SECRETARY

MUSKOGEE, IND. TER. 4/16 1902

T. H. Chandler
Vinita I.T.

Dear Sir:

Please write me the grounds alleged in the complaint for a divorce in case of Zora A. Cummings vs David S. Cummings - Was it cruelty, abandonment or what?

Yours truly
W W Hastings -

Dear Sir:

Desertion is the ground set forth in Petition. Plaintiff claims Deft deserted her on May 29" 1897"

Yours
Chandler & C.

COMMISSIONERS
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee ~~D-539~~ 959

Muskogee, Indian Territory, February 16, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 2, 1903, rejecting the application of David S. Cumming for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Acting Chairman.

Enc. M-83

{c o p y}

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON/

Land
12111-1903.

(COPY)

December 8, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith a report of Mr. Bixby, former chairman of the Commission to the Five Civilized Tribes, dated February 16, 1903, transmitting record in the matter of the application of David S. Cummings for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation, including the Commission's decision dated February 2, 1903, rejecting the application.

The applicant, a white man, claims the right to enrollment as a Cherokee citizen by reason of his marriage to Flora B. Rogers, a Cherokee citizen, on January 16, 1891, in accordance with the laws of the Cherokee Nation. The record shows that subsequent to the applicant's marriage, as above, he secured a divorce from his wife, and thereafter, in May, 1901, he married one Martha J. Hull, a white woman.

Under the decision of the Supreme Court of the United States in the case of Daniel Bird, et al., versus the United States, the applicant is not entitled to enrollment, and it is recommended that his application be denied and the decision of the Commission adverse to him be approved.

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

AJW--SD

(C O P Y)

D.C.766-1907. Y.P.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D.24832-1906. December 28, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

February 16, 1903, the Commission to the Five Civilized Tribes transmitted the record in the matter of the application for the enrollment of David S. Cummings as a citizen by intermarriage of the Cherokee Nation, including its decision dated February 2, 1903, adverse to the applicant.

Reporting December 8, 1906 (Land 12111-1903), the Indian Office recommended that the decision of the Commission be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and the decision of the Commission is hereby affirmed.

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 inc.and 3 to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 359.

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

Muskogee, Indian Territory, January 14, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated February 2, 1903, rejecting the application of David S. Cumming for enrollment as a citizen by intermarriage of the Cherokee Nation, was affirmed by the Secretary of the Interior, December 28, 1906.

For your information, there is enclosed herewith copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.H-147
JMH

IR

B 359

IN THE MATTER OF THE APPLICATION OF

David S. Cummins

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 19. 1900
B. Memo of application - " 19. 1900
C. Marriage license and certificate
D. Additional testimony - September 20. 1900
E. Certified copy of decree of divorce
F. Notice of final consideration

Receipt for testimony

A certified copy of marriage license
A certified copy of decree of divorce
Brief for [illegible]
See Kilbuck docket 3261
Supp. to [illegible] docket No. 12

Cher D 360

DEPARTMENT OF INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 20, 1900.

In the matter of the application of Thomas P. Dawson for enrollment of himself and one child as citizens of the Cherokee Nation, said Dawson being sworn by Commissioner Needles, testified as follows:

Q What is your name? A Thomas P. Dawson.
Q Your age? A 22 .
Q Your postoffice? A Afton.
Q What district do you live in? A Delaware.
Q Are you recognized citizen of the Cherokee Nation? A Yes .
Q What degree of blood do you claim? A 1/16.
Q For whom do you apply for enrollment? A Myself and one child.
Q What is the name of your mother? A Sarah.
Q Is she living? A Yes.
Q What is the name of your wife? A Alma A..
Q When did you marry her? A 1899.
Q What is the name of your child? A Marie J., 1 year old.
Q Is this child living? A Yes.

Applicant presents marriage license issued by the Clerk of the United States Court certifying that he was married to Allen A. Allison, a citizen of the United States, on the 24th of April, 1898.

Q How long have you lived in the Cherokee Nation? A About 12 years.
Q Is your name on the roll of '80? A No sir.
Q By what right do you claim citizenship? A My father was an admitted Cherokee.

You present certificate of admission issued from the Executive office of the Cherokee Nation under date of 18th of November, 1896, signed by W. H. Mays, Assistant Executive Secretary, under seal of the Cherokee Nation, certifying that one John Dawson, among others, was admitted to citizenship on the 11th day of January, 1883, Is the John Dawson mentioned in this certificate your father ? A Yes.
Q You claim citizenship through him? A Yes.
Q When were you born? A '78.

Applicant on '96 roll, page 462, number 926, Thomas Polk Dawson.

The name of Thomas P. Dawson appears upon the census roll of '96. He presents a marriage license in due form certifying that he was married in accordance with the laws of the United States to one Allen A. Allison, a citizen of the United States, onthe 24th day of April, 1898. He also presents a certificate of admission, more particularly described in the testimony, certifying that his father, John Dawson, was admitted a citizen in the year 1883. Applicant avers that he was born in the year 1878, bef re the admission of his father. He presents no certificate of admission as to himself. He also presents proof of birth as to one child, Marie J., who was born after the census roll of '96 was compiled, and whose name does not appear thereon. The fact that said Thomas P. Dawson presents no satisfactory proof as to his citizenship, and he having been born after his father was admitted, final judgment as to his application will be suspended, and his name and that of his child, will be placed upon a doubtful card.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 22nd day of September, 1900.

Commissioner.

D 360

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1900

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Thomas P. Dawson et al for enrollment as Cherokee citizens:

Case No. D 360

To Thomas P. Dawson et al.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T., Indian Territory, on March, 17, 1902. at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this March, 10, 1902.

W. W. Hastings

Attorneys for the Cherokee Nation.

D. 360

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the

.....day of .....A. D. 190....

Given under my hand this..... .....

day of.....A. D. 190....

.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the

.... day of ...., 190....

.....

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the..... ....day of..... ..... A. D. 190....

.....

Subscribed and sworn to before me this .....

.....

Notary Public.

Registered Letter Parcel No. 3548 Post Office, Muskogee, Ind. Ter.

C.D. 360

This space is reserved on condition part for particulars connected with dispatch of registered parcel.

1788

Received MAR 10 1902 1900 from J C Starr

addressed Thos P Dawson Afton I T

Houston T. Estes, P. M.

CHEROKEE. D 360

Thomas P Dawson Dd

Cancelled and transferred to Cherokee 10.7111

COPY OF TESTIMONY FILED WITH THE CHEROKEE NATION.

See D 394

Cher D 361

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 20, 1900.

In the matter of the application of William Prophet for enrollment of himself and four children as citizens of the Cherokee Nation, said William Prophet being sworn by Commissioner Needles, testified as follows:

Q What is your name? A Willia Prophet.
Q Your age? A 46.
Q Your postoffice? A Senaca, Mo.
Q What district do you live in? A In Eastern Shawnee Paw Paw Agency.
Q Are you a recognized citizen of the Cherokee Nation? A I guess so, but ever since I have been married I have been living with those folks.
Q Are you a Cherokee by blood? A No sir, Shawnee.
Q Shawnee by blood? A yes.
Q What degree of blood? A My father was full-blood Indian and my mother was one-quarter white.
Q Who do you want to enroll? A Myself and four children.
Q Is your name on the roll of '80? A No sir.
Q Have you any proof of your citizenship? A yes.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A yes.
Q What are the names of the children you apply for? A Frank, 8 years old.
Q Next? A Nannie, 6 years old.
Q Next? A Elmer, 4 years old.
Q Next? A Bessie, 1 year old.

By W. T. Hutchins, Cherokee Attorney:
Q Did you come here with the Shawnee Tribe of Indians in '71?
A Yes.
Q From Kansas? A Yes.
Q How long did you remain here? Did you ever settle in the Cherokee Nation at all A Yes in Gillstrap- that is where I registered.
Q How long did you live there? A About two years.
Q Lived up on Big Cabin about 5 years? A Yes.
Q Then you went off? A yes.
Q Where? On the other side.
Q Did you marry over there? A Yes.
Q Been living over there? A Yes, since '71.
Q You moved over in the Senaca country in '71? A No sir, I did not move, was just working around. Have been in Kansas City and in Illinois in '80.
Q You have not been residing in the Cherokee Nation since '75? A No.
Q The wife and such children as you wanted took allotments over in the Paw-paw agency? A Yes.
Q And you have been living on their allotment ever since? A Yes.
Q And are living there now? A Yes.
Q These children that you apply for were born in the Paw-paw agency, were they not, when their mother was a citizen of the Eastern band of Shawnees? A yes.

The name of William Prophet does not appear upon any of the rolls of the Cherokee Nation in the possession of the Commission, nor does that of his wife for whom he applies. He files certificate claiming that he is a Shawnee Indian by blood and is entitled to citizenship by reason thereof in the Cherokee Nation. Final ~~enrollment~~ judgment as to enrollment of himself and three children will be suspended, and they will be placed upon a doubtful card.

The undersigned, ~~xxx~~ being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B Meservey

Subscribed ~~xx~~ and sworn to before me this 22nd day of September, 1900.

Commissioner.

36 f

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1900

ACTING CHAIRMAN.

Supl.C.D.#361.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 31st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of WILLIAM PROPHET, ET AL., as Cherokee citizens, introduced on part of the applicants:

APPEARANCES:
S. S. Clover, Attorney for Applicants;
Mr. Davenport, appearing for Cherokee Nation.

THOMAS DOUGHERTY, being duly sworn and examined by Commissioner Breckinridge, testified as follows on part of applicants:
Q Give your full name? A Thomas Dougherty.
Q Your age? A 51.
Q What is your post office? A Vinita.
Q You are a full blood Shawnee are you not, or nearly so?
A Nearly so.
Q Do you know one william Prophet? A Yes, sir.
Q Whose post ossice is at geneca, Missouri? A Yes, sir.
Q He lives out in the Quapaw country? A He lives in the Shawnee Reservation, Eastern Shawnee Reservation.
Q Now, he seems to have applied for hi mself and children in September of last year and not to have been identified on any roll; do you know whether he came down here wi th the shawnees when the general movement took place? A Yes, sir.
Q Has he always gone und er this name just william Prophet or some other name? A That is all I know.
Q Give me the name of his father? A John Prophey.
Q And his mother? A Her name is Nancy.
Q Were they both living at the time the Shawnees moved down here?
A No, sir, they died in Kansas.
Q They died back up there? A Yes, sir.
Q Well, who did this william come down here with?
A I think he come with his sister.
Q More than once sister? A He had three sisters at that time.
Q Give me their names? A Mariah.
Q Was she Mariah Prophey in that day? A No, she was a Perry.
Q And who else? A Annie.
Q Was she a Prophet at that time? A No, I think not, I think she was Ann Doughterty.
Q Well, twere there any members of his own name, still bearing the name of Prophey at that time; did he have any brothers?
A No, sir, he had another sister, her name was Rebecca white.
Q Rebecca White then? A Yes, sir, when he came down: Did I say the mother died up there in Kansas?
Q Yes. A Well, I think she died here since I coke to think about it.
Q Well, wasn't William Prophet among the Shawnees who never came down here and was living at the time they came here? A Not that I know of.
Q Looking on the roll I see the name of a William Prophet with a memorandum made by some one that he never lived here; a number of people simply put down as Prophet without any given name at all. Do you know of your own knowledge that this man came here when the Shawnees came in the general movement down from Kansas?
A Yes, sir.
Q And do you know that he came at a time that entitled him to be on the Register of the Shoawnees which was made within two years after the 9th of June, 1869? A Yes, sir, I think so.
Q You came at that time? A I came in '71.
Q Who was Alice Dougherty back in that day? A She is my wife.
Q You are the Thomas Dougherty identified with Alice Dougherty on that old Register? A Yes, sir.

Com'r Breckinridge: There are a number of persons given on the Register simply as "Prophet", and of course it is impossible to determine which one may be the present applicant, a whole family being given underthat name without any name being given to distinguish one from the other.

Q This Ann Dougherty was not in your family was she? A No.
Q Did you know the mother of William Prophey? A Yes, sir.
Q You say she came down with the Shawnees? A I think so, I think she died here in the Cherokee Nation.
Q But her name was doubtless put down there as Prophet like the balance of them; was she a full blood? A No, sir, about three quarters.
Q Was her husband John Prophet, a full blood? A No, I think not.

Com'r Breckinridge: Upon further serch of the Shawnee Register there is an Anna Prophet now alleged to be a sister of this applicant , identified as number 566, and immediately following her name is William Prophet previously referred to, #567, opposite whose name there has been placed a memorandum, but not a part of the printed record and by whom placed is not known, to the effect that "never lived here."

Q Now, this man, William Prophet, where did he stay when he first came down here? A I think they lived down here on Grand river near Gilstrap ferry.
Q Then he did live here in the Cherokee Nation? A Yes, sir
Q And put his name down here on this Register? A Yes, sir.
Q How long did he live here? A I don't know how long he did live here; when he moved away from there he moved up on Neosho river, that is after he married.
Q And then afterwards moved up in the Quapaw country?
A No, sir, he moved up here on the Neosho river and had an uncle living up there by the name of Frank White.
Q Where has he been living for the last twenty years?
A He has been living up there in the Shawnee reservation, Eastern Shawnee reservations, he lives now.
Q What name is it given on the map, I don't know such name given in the Geography? A It is given as Quapaw.
Q What is markredd as Quapaw country? A Yes, sir.
Q Did this man draw Cherokee strip money in 1894? A Yes, sir.
Q He ought to be on the 1894 roll? A '96 Dicksen roll.

Cherokee-Shawnee pay roll, page 31, #625, William Proffit, age at that time 43 years.

Com'r Breckinridge to Roll Clerk: Who is with him there?
A Alma.

Cherokee-Shawnee pay roll, page 31, #626, Alma Proffit, ate, at that time, three years.

Q Has this man Prophet as you know ever affiliated or sought to enroll with any other tribe except the Cherokees? A No, not that I know of.
Q Do you remember distinctly when he first went up to the Quapaw Agency? A No, sir, I could not state.
Q He has been living there quite a long time? A Yes, sir.
Q As much as 20 years you think? A Yes, sir.
Q What is he doing over there and what has he been doing up in the Quapaw country, farming and keeping house? A Yes, sir, he married there and has got quite a family there now.
Q Has he ever taken up land there as an allotted Shawnee? A No, sir.
Q His wife is what, a Quapaw? A His wife is an Eastern Shawnee.
Q Does she claim Cherokee rights? A No, she don't claim, she drew land there.
Q She has taken an allotment there? A Yes, sir.

Q What about the children, have they taken allotments there?
A I understand there is only a part of them taken allotments over there.
Q Part did and part didn't? A Yes, sir.
Q But they are all the children of this one woman? A Yes, sir, all one set of children; well, he has one son that is of age by the name of John Prophet that has an allotment over there by former marriage.
Q All the other children are the children of the present wife?
A Yes, sir.
Q And she claims and exercises her right in the Quapaw Agency?
A Yes, sir.
Q And makes no claim to Cherokee righat? A No, sir, although she is registered.

MR. CLOVER: A Do you know of william Prophet ever voting in the Cherokee Nation? A I think so.
Q Do you know positively? A I think he voted here once that I know of.

COM'R BRECKINRIDGE: Well, do you know it, or do you just think it? A I know it.
Q Did you see him vote? A No, I didn't see him vote.
Q How do you know it? A I just know he voted is all.
Q Just believe it? A Yes, sir.

MR. CLOVER: Did he ever make application before John W. Wallace for enrollment? A Yes, sir.
Q Was he enrolled? A Yes, sir.
Q At any time did he draw any money from that enrollment?
A Yes, sir.

COM'R BRECKINRIDGE: Well, you lived up there in that Quapaw country didn't you? A No, sir, I live here.
Q Do you know whether this man, William Prophet, ever voted up there? A No, I think not.
Q You don't know? A No, I don't know.
Q That is a good ways off from where you live? A It is 34 miles.

MR. DAVENPORT: Now, Mr. Dougherty, by what right did his wife take allotments up there? A She was adopted there.
Q She was a shawnee just the same as Mr. Prophey, wasn't she?
A She was registered here.
Q She was registered a Shawnee? A Yes, sir.
Q And he was registed a shawnee? A Yes, sir.
Q She and he both went to the quapaw reservation where a number of others went? A No, she went over there with her father Divid Deshanks.
Q And he went? A He married her over ~~ke~~ there.
Q And been living over there ever since he married? A Yes,sir.
Q There were several of the Chawnees went to the Quapaw reservation wasn't there? A Yes.
Q There is a great jany of them living over there yet, a number?
A There ain't ~~xxxxx~~ many there is a few.
Q There is a good many taken allotments over there? A No.
Q There are some of the Shawnees that came to this country that have gone over there and taken allotment and living there?
A I don't know of but this case.
Q Don't you know that susie Walton, I don't know her first name, and she went over there and taken an allotment? A No.
Q Don't you know that she appli ed before this Commission for a child and didn't apply for herself? A She is not a Allottee over there.

Com'r Breckinridge: This testimony will be filed as suplemental in Cherokee doubtful case #361, of William Prophet, et al.

---oooOOOooo---

Sulp.C.-D.#361.--4.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this November 9th, 1901.

Commissioner.

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

FILED
NOV 11 1901

ACTING CHAIRMAN

D. 361.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of William Prophet for the enrollment of himself and children as citizens of the Cherokee Nation.

The applicant and his attorney, S. S. Clover, were notified by registered letter February 6, that this case would be takenup by the Commission for final consideration on the 25th day of February, 1902, and that they could on said day appear and introduce any further testimony affecting said application. Receipt has been acknowledged of the Commission's letter by the applicant and his attorney. They have been called three times and fail to respond. The case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

D361

Cherokee D. 281.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of William Prophet for the enrollment of himself and his minor children, Frank, Nannie, Elmer and Bessie Prophet, as citizens of the Cherokee Nation of Shawnee blood.

D E C I S I O N.

The record in this case shows that on September 20, 1902, William Prophet appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of himself and his minor children, Frank, Nannie, Elmer and Bessie Prophet, as citizens of the Cherokee Nation of Shawnee blood. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 31, 1901; at Muskogee, Indian Territory, on February 25, 1902, and thereafter at Vinita, Indian Territory, on January 12, 1903.

The evidence shows that the said William Prophet is identified on the register of Shawnees who removed to and located in the Cherokee Nation within the years from the 8th day of June, 1869, in accordance with an agreement entered into by and between the Shawnee Tribe of Indians and the Cherokee Nation of Indians, approved by the President of the United States on June 8, 1869, and upon the 1869 Cherokee-Shawnee pay roll.

The evidence further shows that the said William Prophet, prior to the year 1880, removed to and located in the Angry Reservation and married a member of the tribe of Eastern Shawnee Indians, and that the said Frank, Nannie, Elmer and Bessie Prophet are the issue of said marriage.

The evidence further shows that at the same place and date hereinbefore shown, William Prophet appeared before the Commission and withdrew the application heretofore made for the enrollment of his minor children, Frank, Nannie, Elmer and Bessie Prophet, as citizens of the Cherokee Nation of Shawnee blood, they having been enrolled as members of the tribe of Eastern Shawnee Indians and received allotments of land in the Quapaw Agency, Indian Territory, as such.

The evidence further shows that William Prophet has resided in the Indian Territory continuously for more than twenty years next preceding the date of this application.

It is, therefore, the opinion of this Commission that William Prophet should be enrolled as a citizen of the Cherokee Nation of Shawnee blood, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

It is further ordered that the application for the enrollment of Frank Prophet, Nannie Prophet, Elmer Prophet and Bessie Prophet as citizens of the Cherokee Nation of Shawnee blood, be, and the same is, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. E. Stanley.
Commissioner.

Dated at Muskogee, I. T.,
this APR 17 1903

DEPARTMENT OF THE INTERIOR,

UNITED STATES INDIAN SERVICE,

Seneca Indian Training School,
Quapaw Agency,
Wyandotte, Ind. Terr.
February 16, 1903

J. C. Starr,

Vinita, Indian Territory.

Sir:

Replying to yours of 13th inst; Cherokee-D-361- will say that William Prophet, has never received an allottment of land in this Agency.

Very respectfully,

Superintendent.

Seneca Indian Training School,
Quapaw Agency, Wyandotte, Ind. Terr.
February 16, 1903.

I hereby certify that William Prophet, Shawnee Indian, is not an allottee of any of the tribes of the Quapaw Agency. We have no William Prophet, 13 years of age but I assume he is not the person your inquiry relates to.

Superintendent & Acting U.S.
Indian Agent.

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-361

Muskogee, Indian Territory, April 21, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 17, 1903, granting the application of William Prophet for the enrollment of himself as a citizen of the Cherokee Nation of Shawnee blood, and dismissing his application for the enrollment of his four minor children, Frank, Nannie, Elmer and Bessie Prophet.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman.

Enc. M-2142

D 361

IN THE MATTER OF THE APPLICATION OF

William Prophet et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 19, 1900
B. Mem. of application " 19, 1900
C. Certificate relative to allotment in Quapaw [illegible]
Supplementary testimony [illegible] 1901
Notice of final [illegible]

Order closing testimony, Feb. 25, 1902

Cher D 362

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., [illegible], 1900.

In the matter of the application of Ida Cushman for the enrollment of herself and husband as citizens of the Cherokee Nation, said Cushman being present. Commissioner [illegible] Kirkpatrick, testified as follows:

[illegible] your full name, [illegible]
[illegible] Albert.
[illegible] your post office? A Albert.
[illegible] did you live? A [illegible]
[illegible] you met to have [illegible] years of age? A [illegible] husband.
[illegible] your [illegible]? [illegible] Cherokee [illegible]
[illegible] for yourself [illegible] Cherokee [illegible] sir.
[illegible] to be enrolled [illegible], sir.
[illegible] presentation of Charles Bushman [illegible].
[illegible] you [illegible] licensed [illegible], sir.
[illegible] testimony:--The applicant [illegible] certificate, showing [illegible] Bushman and Ida [illegible] were joined in marriage at Tahlequah, Cherokee, July [illegible], [illegible], by the [illegible] Rice. This is filed with the public [illegible].
Have you lived in the Cherokee Nation [illegible] your marriage [illegible] sir.
Did you come to the Cherokee Nation immediately after your marriage? A I have lived [illegible] since I was [illegible].
[illegible] Cherokee [illegible]?
Do you claim [illegible] Cherokee [illegible] since your marriage? A Yes, sir.
[illegible] sir.
[illegible]
[illegible] sir.
[illegible]
[illegible] the role of [illegible] is [illegible] Jones [illegible] or J[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
Cherokee [illegible], sir, [illegible].
[illegible]
[illegible] mother's given name, [illegible]
What is your maiden name? [illegible]
[illegible] Cushman [illegible] sir
Who is living, is she? A [illegible], sir.
Cherokee woman? A [illegible], sir.
[illegible] aware.
[illegible]

Q Give your full name, [illegible] name now.
Q Give your age? [illegible]
Q Your post office? A Vinita.
Q You have lived in the Cherokee Nation how long? A All my life, born and raised here.
Q Do you know the applicant here, Ida Bushman? A Yes, sir.
Q Isher husband your son? A Yes, sir.

Id. Claimants---.

[illegible]

[illegible]

[illegible]

J. C. Pearson

[illegible]

[illegible]

D362

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1900

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. October 4th, 1900.

SUPPLEMENTAL PROCEEDINGS IN THE MATTER OF THE APPLICATION OF JASON M. CUSHMAN AND HIS WIFE IDA CUSHMAN FOR ENROLLMENT CARD D. 362.

CAROLINE FIELDS, being sworn and examined by Commissioner C. P. Brockinridge, testified as follows:

Q Give me your name please. A Caroline Fields.
Q That is your present name, is it? A Yes, sir.
Q What is your post office? A Vinita.
Q What district do you live in? A Delaware.
Q How old are you? A I was born in 1848.

EXAMINATION by Mr. W. W. Hastings, representative of the Cherokee Nation.

Q Do you know Jason M. Cushman? A Yes, sir.
Q How long have you known him? A I have known him ever since he was a sucking baby.
Q Where was he born? A He was born on Honey Creek.
Q In what District A Delaware District.
Q Cherokee Nation? A Yes, sir.
Q Who was his mother? A Mary Sutton.
Q What was her maiden name? A Mary Walton.
Q Was she a Cherokee by blood? A Yes, sir.
Q A recognized citizen of the Cherokee Nation? A Yes, sir.
Q Do you know whether or not Jason M. Cushman has always lived in the Cherokee Nation? A Yes, sir; he has.
Q How far did he live from you? A Why, he always lived over on Honey Creek, and part of the time here in Vinita.
Q But you knew of his livingin the Cherokee Nation all the time? A Yes, sir.
Q Where is he now? A He is in the Insane Asylum.
Q At Nahlequah? A Yes, sir.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had at the supplemental hearing of the above mentioned application, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 22nd day of October A.D. 1900.

Commissioner.

"R"

D 362

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 25, 1902.

In the matter of the application of Ida Cushman, for the enrollment of herself as a citizen of the Cherokee Nation:

Appearances:
Applicant present in person;
W. W. Hastings, for the Cherokee Nation.

IDA CUSHMAN, being sworn and examined, testified as follows:

Q What is your name ? A Ida Cushman.
Q Where do you live Mrs. Cushman ? A At Alby.
Q Is that in the Territory ? A Yes sir.
Q Is there any further statement you desire to make relative to your application as a citizen of the Cherokee Nation ?
A No sir, I haven't anything.

Examined by Mr. Hastings:

Q You haven't married since you enrolled ? A No sir.
Q You and Cushman were separated ? A We were; he was in the asylum.
Q He is dead ? A He died a year ago last April.
Q Did you live with him up to the time he went to the asylum ?
A We were living in a hay camp and he went crazy.
Q You never were separated up to that time ? A No sir.
Q How long after he was stricken until he was taken to the asylum ?
A About three weeks.
Q Did you stay with him during that time ?
A I did all excepting five days.
Q What was the cause of that ? A He went over across the river to where his brother was and I didn't go.
Q With that exception you lived together all the time ?
A Yes sir.
The Commission:
Q When did he die ? A On the 8th day of last April.
Q Have you married since his death ? A No sir.
By Mr. Hastings:
Q He is dead now ? A Yes sir.
The Commission: Do you submit this case to the Commission for final consideration ? A Yes sir.

The applicant and representative of the Cherokee Nation present submit this case to the Commission for final consideration, and the same is ordered closed; and reported to the Commission for final decision based upon the evidence now on file.

E. C. Bagwell, on oath states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is a true and accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 6th, 1902.

In the matter of the application of Jason M. Cushman for the enrollment of himself as a citizen by blood of the Cherokee Nation and for the enrollment of his wife, Ida Cushman, as a citizen by intermarriage of the Cherokee Nation.

Supplemental to D-362.

Applicant appears in person.
Cherokee Nation by J. C. Starr.

IDA CUSHMAN, being duly sworn, testified as follows:--
Examination by the Commission.

Q. What is your name, please? A. Ida Cushman.
Q. What is your age, Mrs. Cushman, at this time? A. 26 years old.
Q. What is your post office? A. Albia.
Q. Are you the same Ida Cushman for whom application was made to this Commission for enrollment as an intermarried citizen on September 10th, 1900? A. Yes, sir.
Q. What is your husband's name? A. J. M. Cushman.
Q. Was he a Cherokee by blood? A. Yes, sir.
Q. Is he living or dead? A. He is dead.
Q. When did he die? A. Last April; 1900; 8th day of April.
Q. 1901? A. Yes, sir.
Q. When were you and Jason M. Cushman married? A. We were married in 1895.
Q. What time in 1895? A. July 26th.
Q. Did you and he live together as husband and wife from the time of your marriage up until the time of his death in 1901?
A. Yes, sir; then he went crazy and was in the asylum.
Q. Well, you didn't separate? A. No, sir.
Q. You lived together all the time up until the time he was put in the asylum? A. Yes, sir.
Q. You never separated in any other way during his lifetime?
A. No, sir.
Q. Have you ever married since his death? A. No, sir.
Q. Never married any other man? A. No, sir.
Q. Was he your first husband? A. Yes, sir.
Q. You his first wife? A. Yes, sir.
Q. You were a widow and single on the first of September, 1902.
A. Yes, sir.
Q. How long have you lived in the Cherokee Nation? A. 14 years.
Q. Have you lived in the Cherokee Nation all the time for the last 14 years? A. Yes, sir.
Q. You have no children? A. No, sir.

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Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 31st day of October, 1902.

B. O. Jones
Notary Public.

Cherokee R 362.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 11, 1902.

In the matter of the application Alma Keith for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

ALMA KEITH, being sworn, testified as follows:

By the Commission,

Q What is your name, Mrs. Keith? A Alma Keith.
Q What is your age at this time? A Twenty-seven.
Q What's your postoffice? A Briartown.
Q You are an applicant before the Commission for enrollment as an intermarried citizen of the Cherokee Nation, are you not? A Yes, sir.
Q What is your husband's name? A His name's Freeman Keith.
Q When were you married to him? A Nigh ten years.
Q March, 1892? Wasn't it? A Married in April.
Q April, '92? A Yes, sir.
Q Were you ever married before your marriage to Mr. Keith?
A No, sir.
Q Was he ever married before his marriage to you? A No, sir.
Q You're his first wife and he's your first husband? A Yes, sir.
Q Have you and Mr. Keith lived together all the time since your marriage up to the present time? A Yes, sir.
Q Never had any falling out? A No, sir.
Q Never had any separation? A No, sir.
Q Living together as husband and wife on the first day of September, 1902? A Yes, sir.
Q He's the only man you were ever married to? A Yes, sir.
Q Have you lived in the Cherokee Nation ever since your marriage in 1892? A Yes, sir.
Q Where were you married? A Briartown.
Q Been living there ever since? A Yes, sir.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 22nd day of October, 1902.

B O Jones
Notary Public.

Cherokee D - Sex.

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

In the matter of the application for the enrollment of Jason M. Cushman as a citizen by blood, and for the enrollment of his wife, Ida Cushman, as a citizen by intermarriage, of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 20, 1900, Ida Cushman appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of herself as a citizen by intermarriage, and for the enrollment of her husband, Jason M. Cushman, as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 4, 1900, and at Muskogee, Indian Territory, on February 25, and October 6, 1902.

The evidence in this case shows that Ida Cushman, a white woman, was lawfully married on July 26, 1895, to Jason M. Cushman, a native Cherokee. Jason M. Cushman cannot be identified on the Cherokee authenticated tribal roll of 1880, but, upon examination of the tribal rolls of the Cherokee Nation in the possession of this Commission, he is identified on the Cherokee pay roll of 1883, on the Cherokee census roll of 1883, on the Cherokee pay roll of 1886, and on the Cherokee census roll of 1890, as "Jason Sutton". On the Cherokee strip payment roll of 1894 his name appears as "Jayson Cushman." The name of his mother, formerly Mary Sutton, is found on the Cherokee authenticated tribal roll of 1880.. Both Jason M. Cushman and his wife, Ida, are identified on the Cherokee census roll of 1896.

The evidence further shows that Jason M. Cushman died on April 8, 1901.

The evidence further shows that Ida Cushman has lived in the Cherokee Nation ever since her marriage to Jason M. Cushman in 1895, and that she has not married since his death.

It is, therefore, the opinion of this Commission that Ida Cushman should be enrolled as a citizen by intermarriage of the Cherokee Nation in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered. It is further ordered that the application for the enrollment of Jason M. Cushman be, and the same is hereby, dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES

Tams Bixby.
Acting Chairman

T. B. Needles
Commissioner

C. R. Breckinridge
Commissioner

Muskogee, Indian Territory,
this DEC - 1 1902

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.

J. C. STARR, SEC.

OFFICE OF

ATTORNEYS FOR CHEROKEE NATION

BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number F. D .....

Muskogee, I. T., Feb. 10, 1902.

Mrs. Mary Dawes,

Vinita, I. T.

Dear Madam:

Enclosed herewith find a subpoena for your attendance before the Dawes Commission, February 25th, 1902. Please acknowldge service and advise us if you will be here on that date.

Yours very truly,

W. W. Hastings

Attorney for the Cherokee Nation.

NOTICE!

IN THE MATTER OF the application of Ida Cushman for enrollment as Cherokee citizens:

Case No. D 362

To Ida Cushman, Alma, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on February 25th, 1902, at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 10th day of February, 1902.

N. W. Hastings

Attorneys for the Cherokee Nation.

C.D. 362

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the

..... day of ..... A. D. 190...

Given under my hand this .....

day of ..... A. D. 190...

.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the

..... day of ....., 190...

.....

Attorney for applicant.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the ..... day of ..... A. D. 190...

.....

Subscribed and sworn to before me

this .....

.....

Notary Public.

Proof of Service made
and original filed with the
DAWES COMMISSION.

FEB 20 1902

February 14 1902

Mr W. W. Hastings
Dear Sir

I received your telegram but I am sorry to say I am not able to appear before the United States Commission at Muskogee. I have got my leg broke and under the treatment of the Doctor

Yours
Respectfully
Wm Davis

Feb 15 9

My [illegible]

[illegible] 15.

I received y[illegible]

[illegible] permission & [illegible]

[illegible] make [illegible] may [illegible]

[illegible] all the [illegible] put the question

to [illegible] the first [illegible] she [illegible] make the

best [illegible]. Jason stayed a great deal

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.

J. C. STARR, SEC.

OFFICE OF

ATTORNEYS FOR CHEROKEE NATION

BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number F. D.

Muskogee, I. T., Feb. 18, 1902.

Simpson F. Melton,

Grove, I. T.

Dear Sir:

A woman by the name of Ida Cushman, who was the wife of Jason N. Cushman has applied to the Commission for enrollment. It seems that Jason Cushman and his wife had separated before her application for enrollment. She claims as a citizen of the Cherokee Nation by inter-marriage, and we desire to produce some testimony as to the cause of their separation, and we are informed that you and your wife know about this cause of separation. Will you kindly advise us what either of you may know and state any facts you may know affecting her right to enrollment as a citizen of the Cherokee Nation by inter-marriage.

Yours very truly,

Attorney for Cherokee Nation.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON T. AYLESWORTH
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 362.

ADDRESS ALL PAPERS TO THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 3, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1902, granting the application of Ida Cushman for the enrollment of herself as a citizen by intermarriage, and dismissing her application for the enrollment of her husband, Jason M. Cushman, as a citizen by blood of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enclosure H. No. 72.

DATE.	DEALER'S NAME.	CITY OR TOWN.	STATE.	Brands.	Lbs.	Brands.	Lbs.	Brands.	Lbs.	Brands.	Lbs.	Brands.	Lbs.	Brands.	Lbs.	TOTAL
Dear Mr Smith																
2nd April 8																
Mrs Starr																
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She is doubtful																
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not lived																
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BRANDS AND POUNDS.

She will get
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posibly can

very Dear

TOTAL LBS. CARRIED FORWARD.

DATE.	DEALER'S NAME.	CITY OR TOWN.	STATE.	Brands	Lbs

DATE.	DEALER'S NAME.	CITY OR TOWN.	STATE.	Brands	Lbs
	[illegible]				

362

IN THE MATTER OF THE APPLICATION OF

Jason M. Cushman

FOR ENROLLMENT AS

CHEROKEE CITIZENS

D362

IN THE MATTER OF THE APPLICATION OF

Jason M. Cushman et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

a Original testimony - September 20, 1900
b Mar. application - " 20, 1900
c Marriage Certificate
d Supl testimony from M. Cushman - Oct. 4, 1900
e " " Caroline Fields - " 4, 1900
f Death certificate Jason M. Cushman
g Unclaimed letter rec'd re death certificate

h Notice of final consideration
Proof of service of notice 2/25/02
i Supl test & order closing test 2/25/02

Cher D 363

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 20, 1900.

IN THE MATTER OF THE APPLICATION OF CHARLES F. DEGE FOR THE ENROLLMENT OF HIMSELF AS A CHEROKEE CITIZEN/

The said Charles F. Dege, being sworn and examined by commissioner C. P. Breckinridge, testified as follows:

Q Give me your full name please.
A Charles F. Dege.
Q What is your age? A Thirty years.
Q Your post office? A Coffeeville Kansas.
Q What District do you live in? A My home is in Cooweescoowee.
Q How long have you lived in the Cherokee Nation? A I came to this country in 1892.
Q For whom do you apply for enrollment? A Just myself.
Q Do you apply as a native Cherokee? A Yes, sir.
Q You came to this country in 1892? A Yes, sir.
Q And you have lived here ever since? A No, sir.
Q How long did you live here when you came here in 1892?
A I went back to Atlanta, Georgia, and staid about a year.
Q How long did you stay here in 1892? A I was here only two months. And then I came back in 1893, in the fall of 1893.
Q Then, how long did you stay? A I staid until 1899, in November.
Q Then what did you do? A I went to Coffeeville Kansas to wok,
Q And are you domiciled at Coffeeville at this time?
A I am working up there, yes, sir.
Q You have your business engagement there? A Yes, sir.
Q What are you doing? A Clerking in the dry goods business
Q And you have been since 1899? A Yes, sir.
Q What time in 1899? A In November.
Q Were you admitted to citizenship by the Cherokee Commission
A Yes, sir.

THE COMMISSIONER: The applicant presents a duly authenticated certificate of admission to Cherokee citizenship, showing that on January 4th, 1888, a certain number of persons were admitted by the Cherokee commission, and among them appears the name of Charles F. Dege.

Q That is your name is it? A Yes, sir.
Q Your age at that time seventeen years? A Yes, sir.

THE COMMISSIONER: This is accepted as official evidence of the facts stated.

1896 roll, page 146, No 1397, Charles F. Dege, Cooweescoowee District, Native Cherokee.

Q Have you any property in the Cherokee Nation? A I have household goods, yes, sir.
Q You have no improvements? A No, sir.
Q What kind of household goods have you? A Only a set of furniture.
Q Is that at your mother's house? A Yes, sir.

THE COMMISSIONER: The applicant applies for the enrollment of himself. He is shown by the certificate of admission filed herewith to have been admitted to Cherokee citizenship in 1888. He is identified on the roll of 1896 as a native Cherokee. He is shown to have come to the Cherokee Nation in 1892, and to have staid two months, and to have gone to Atlanta, Georgia, and there staid until sometime in 1893. In that year he returned to the Cherokee Nation and staid until 1899, during which year he removed to Coffeeville Kansas, where he has been ever since, and where he is residing at the present time, being engaged as a clerk in a dry goods store. In view of the uncertainty of his residence his application will be placed upon a doubtful card, and the final decision of the commission will be communicated to him at his post-office address, and will be forwarded to the Secretary of the Interior for his approval.

The undersigned being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in the foregoing application, and that the above is a correct and complete transcript of his stenographic notes thereof.

Wm. J. McAuliffe

Subscribed and sworn to before me this 29th day of September A. D. 1900.

C. R. Breckinridge

Commissioner.

D363

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 29 1900

ACTING CHAIRMAN.

D. 363.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Charles F. Dege for the enrollment of himself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 6th that his case would be taken up by the Commission for final consideration on the 25th day of February, 1902, and that he could on said day appear before the Commission in person or by attorney, when an opportunity would be given him to introduce any additional testimony affecting his application. Receipt has been acknowledged of the Commission's letter. The applicant called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Commissioner.

0363

Cherokee-D-363.

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Charles F. Doge for the enrollment of himself as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 20, 1900, the applicant, Charles F. Doge, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of himself as a citizen by blood of the Cherokee Nation. It appears from the evidence in support of this application and the records of the Cherokee Nation in possession of this Commission that Charles F. Doge was admitted to citizenship in the Cherokee Nation on January 4, 1888, by the Cherokee Commission. He is identified on the 1896 Census Roll of the Cherokee Nation, page 146, No. 1387. He came to the Cherokee Nation in 1892, remained two months, and then went to Atlanta, Georgia, and staid about one year. He returned to the Cherokee Nation in 1893 and remained until November 1899, at which time he went to Coffeyville, Kansas, and has been there ever since, where he is employed as a clerk.

The law applicable in this case is found in Par. 1, Sec. 21, act of Congress, approved June 28, 1898 (30 Stats., 495).

It is therefore the opinion of this Commission that Charles F. Doge is legally entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for his enrollment as such should be granted and it is so ordered.

Cherokee -D- 362.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory.

This MAY 20 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

D. 363.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Charles F. Dege for enrollment as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-363.

IN THE MATTER OF THE APPLICATION OF

Charles F. Dragg

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 20, 1900
B. Memo of application - " 20, 1900
C. Notice of final consideration
D. Order closing testimony, Feb. 25, 1902

Cher D 364

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 20th, 1900.

IN THE MATTER OF THE APPLICATION OF Joseph R. Dawson, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, T. M. Needles, testified as follows:

Q What is your name? A Joseph R. Dawson.
Q What is your age? A I was born in 1861.
Q What is your Postoffice? A Afton.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q What degree? A About one sixteenth, or one eighth.
Q For whom do you apply for enrollment?
A Myself, wife and five children.
Q What is the name of your father? A Robert Dawson.
Q Living? A No sir.
Q What is the name of your mother? A Jane Dawson.
Q Is she living? A No sir.
Q Is your name upon the authenticated roll of 1880? A No sir.
Q By what right do you claim citizenship?? A By being admitted.
Q You present a certificate of admission from the office of the Commission on citizenship, dated Tahlequah, January 1st, 1888, signed by Thomas Talsee, President of the Commission; Alex Wolf and T. F. Thompson, Commissioners; D. W. C. Duncan, Clerk of the Commission, certifying that among others one Joseph Dawson was admitted to citizenship on the 11th day of January, A. D., 1888: Are you the identical Joseph Dawson mentioned in this certificate? A Yes sir.
Q How long have you lived in the Cherokee Nation?
A Since August, 1888.
Q You moved here the following August after you were admitted?
A Yes sir.
Q Have you been living here continuously since your admission, in the Cherokee Nation? A Yes sir.
Q What is your wifes name? A Florence Jackson.
Q When were you married to her? A In 1886.
Q Have you a certificate of marriage? A Yes sir.
The applicant also presents a certificate of marriage, certifying that he was married to one, Florence Jackson, on the 16th day of May, 1886.
Q Florence Jackson is a non citizen? A No sir.
Q She is a citizen? A Yes sir; she is on the rolls here.
Q What is her father's name? A Green Jackson.
Q Is he living? A Yes sir.
Q Her mother's name? A Ellen Jackson.
Q Is she living? A Yes sir.
Q How old is Florence Jackson? A About thirty six.
Q Have you been living with her continuously since you married her?
A Yes sir.
Q What are the names of your children? A Clarence Edmond.
Q How old is he? A I believe he was twelve years old last December.
Q The name of the next one? A Connell Junie.
Q Is that a girl? A Yes sir.
Q How old is she? A Ten years old.
Q Name of the next one? A Elmer Alexander.
Q How old is Elmer? A He is eight years old.
Q What is the name of the next one? A Cleo.
Q How old is Cleo? A She is four years old.
Q What is the name of the next one? A Rufus T.
Q How old is Rufus? A One year old.
Q Have you any proof of birth as to the youngest child?
A Yes sir.
Q Are these children all living and living with you at this time?
A Yes sir.

(1896 Roll, Page 461, #896, Joseph Dawson, Delaware District)
Q Have you a certificate of marriage to your wife? A Yes sir. I gave it to you a while ago.
(1896 Roll, Page 461, #897, Florence Dawson, Delaware District)
(1896 Roll, Page 461, #898, Clarence Dawson, Delaware District)
(1896 Roll, Page 461, #899, Council Dawson, Delaware District)
(1896 Roll, Page 461, #900, Elmer Dawson, Delaware District)
(1896 Roll, Page 461, #901, Cleo Dawson, Delaware District)

The name of Joseph R. Dawson appears upon the census roll of 1896: The name of his wife, Florence Dawson also appears upon the census roll of 1896; and the names of his children, Clarence, Council, Elmer and Cleo appear upon the census roll of 1896, and he presents satisfactory proof of the birth of his youngest child, Rufus. He avers that he was married to one Florence Jackson in the year 1886, they all being duly identified according to the page and number of the rolls as indicated in the testimony, and makes satisfactory proof as to their residence.

Now comes the Cherokee Nation by its represenatives, and contests the rights of the said Joseph R. Dawson, his wife and children, as to their Cherokee citizenship, and by reasin of said protest, final judgment as to the admission of the applicant, his wife and family will be suspended, and their names will be placed upon a Doutbful Card, his wife as an intermarried citizen, and himself and children as Cherokee citizens by blood.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Brown

Subscribed and sworn to before me
this 21st day of September, 1900.

C A Bruce

COMMISSIONER.

Cherokee B-864.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 19, 1901.

In the matter of the application of Joseph R. Dawson et al. for enrollment as citizens of the Cherokee Nation.

Supplemental testimony on behalf of Florence Dawson.

Appearances:
Applicant present in person;
J. L. Baugh, Cherokee Representative.

Florence Dawson, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A Florence Dawson.
Q What is your age? A 37.
Q Your postoffice? A Afton.
Q What was your father's name? A T. W. Jackson.
Q Is he living? A No, sir.
Q When did he die? A The 19th day of last March.
Q What is your mother's name? A Ellen Jackson; I think they put it down Ella though.
Q What was your mother's name before she married Jackson? A Her name was Ellen Dawson.
Q The records of this Commission show that Green W. Jackson and his wife Ella, or Ellen, applied to be enrolled as Cherokee citizens at Vinita on the 22nd of September, 1900; are you the daughter of the said Green W. and Ella Jackson? A Yes, sir.
Q Where were you born? A Texas.
Q What is the date of your birth? A The 11th day of December.
Q What year? A '63.
Q Then on the 14th of September, 1883, you would be 20 years of age; you were born in '63 were you? A Yes, sir, '62 I guess it was, I made a mistake, some said it was '62, some said it was '63, and uncle said it was a mistake, said I was born in '63.
Q Do you recollect about your father and mother being admitted by the Cherokee Council to Cherokee citizenship? A Yes, sir.
Q Was your name in that certificate? A Why I don't know whether it was or not, I wasn't present at the time.
Q What did your mother tell you about your birth? A '63 she told me.
Q Now when did you remove to the Cherokee Nation from Texas? A Let me see, it is in the bible, I never thought to look, I have been here 18 or 19 years, I forget exactly, it was the 11th day of March, I have forgot the date, '83, I reckon it must have been, I am not certain.
Q Were you married? A No, sir, I married in the Cherokee Nation.
Q Have you lived in the Cherokee Nation continuously since that time? A Yes, sir.
Mr. Baugh: What place in Texas did your folks live at? A Caryella County.
Q What was the name of the postoffice? A Osage.

Commissioner: The records of this Commission show that on the 20th of September, 1900, Joseph R. Dawson applied for the enrollment of himself, his wife, Florence, and five children. At that date applicant made satisfactory proof as to his admission to Cherokee citizenship, and said in his examination that his wife Florence was a Cherokee citizen, but at that time made no proof of her having been regularly admitted. As shown in the testimony taken at that time, the name of his wife Florence is identified upon the census roll of 1896. Now comes said Florence and states that she is the child of Green W.

Jackson and Ellen Jackson, and the records of the Commission show that Green W. Jackson applied for the enrollment of him self and his wife, Ellen, as Cherokee citizens by blood, on the 22nd day of September, 1900, being enrolled upon card D-595. Applicant avers that she does not recollect whether her name was included in the certificate of admission issued to Green W. and Ellen Jackson. In the application of the said Green W. Jackson for the enrollment of himself and Ellen, satisfactory proof is made as to him and his said wife having been admitted to Cherokee citizenship. No proof is made nor presented to the effect that the Florence Dawson, nee Florence Jackson, was at that time admitted, the certificate of admission not now being in the hands of the Commission. Applicant avers that she was born in the state of Texas in the year 1863, but proof as to the admission of her father, Green W. Jackson, and her mother, Ellen, is to the effect that they were admitted by the Cherokee Council on the 14th day of September, 1883. The supposition is that the applicant, Florence, wife of Joseph R. Dawson, was a minor at that time. She makes satisfactory proof as to her residence; she will be listed for enrollment as a Cherokee citizen upon a doubtful card, awaiting the further consideration of the Commission, and the judgment in the matter of the former application of Joseph R. Dawson for the enrollment of his wife, the said Florence, is amended to the effect that the said Florence will be listed for enrollment upon a doubtful card as a citizen by blood instead of a citizen by intermarriage.

****

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 24th of October, 1901.

C. A. Perkins

Commissioner.

(DAWSON CASE)
Cherokee D-364.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 3, 1902.

In the matter of the application of Joseph R. Dawson for the enrollment of himself and children, Clarence E., Council J., Elmer E., Cleo, Rufus T., and Edgar Dawson, as citizens by blood, and for the enrollment of his wife, Florence Dawson, as a citizen by intermarriage of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A Joseph R. Dawson.
Q What is your age at this time? A I guess 52.
Q You are an applicant for enrollment as a citizen by blood are you? A Yes sir.
Q What is your wife's name? A Florence.
Q She is an applicant as an intermarried citizen? A Yes sir.
Q What is her age at this time? A I think thirty-eight.
Q When were you married to your wife Florence? A I think it was about 16 or 17 years ago.
Q Where were you married? A I was married close to Oseuma, in Delaware District.
Q Cherokee Nation? A Yes sir.
Q Were you ever married prior to your marriage to Florence your wife? A Yes sir.
Q How many times had you been married? A Once.
I guess I made a mistake and Needles asked me a question of that kind and he scared me and I think I made a mistake.
Q You think you answered that incorrectly, yu want to correct it? A Yes sir.
Q Was your first wife dead when you married your wife, Florence? A I don't know.
Q Had you been divorced from your first wife when you married Florence? A Yes sir.
Q Did you file a copy of your decree of divorce with the Commission? A No sir, I never thought of it; I got off and I forgot my childrends names. I will have to write to Berryville, Arkansas and get it.
Q Now has your wife, Florence, ever been married before her marriage to you? A No sir.
Q You are her first husband? A Yes sir.
Q And she is your second wife? A Yes sir.
Q Have you and your wife, Florence, lived together as husband and wife continuously from the time of your marriage up until the present time? A Yes sir.
Q Never have been separated during that time? A No sir.
Q You were living together on the first day of September, 1902? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I come here in. I believe, in thesummer of '83 after I was admitted in January. I lived here all the time.
Q You have lived here in the Cherokee Nation ever since you came there in 1883? A Yes sir, right around Afton.
Q Has she lived in the Cherokee Nation all the time since you and she were married? A Yes sir.
Q She never lived out of the nation since you were married to her? A No sir.
Q Are these children Clarence E., Council J., Elmer J., Cleo, Rufus T., and Edgar, your children by your wife, Florence? A Yes sir.
Q Are all these children living at this time? A Yes sir.
Q And have these children lived in the Cherokee Nation ever since their birth up to the present time? A Yes sir, right at home with me.

R-Joseph R. Dawson et al.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. L. Rothenberger

Subscribed and sworn to before me this 18th day of October, 1902.

B. C. Jones
Notary Public.

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

Cherokee D-564.

Muskogee, Indian Territory, July 12, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of Florence Dawson as a citizen by blood of the Cherokee Nation, you are advised that the decision of the Commission to the Five Civilized Tribes, dated November 5, 1904, granting, among others, said application, was approved by the Secretary of the Interior on June 26, 1905.

Respectfully,

Commissioner.

CHEROKEE. D. 364

Joseph R Dawson ~~Ind~~

April 17, 1901 Gos 1, 3 to line.
transferred to Cherokee 10743

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

JUN 12 1905

D.U.N. 394

Cher D 365

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 20th, 1900.

IN THE MATTER OF THE APPLICATION OF August Rulewsky, wife and children for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, T. B. Needles, testified as follows:

Q What is your name? A August Rulewsky.
Q What is your age? A Forty two.
Q What is your Postoffice? A Afton.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee nation by blood?
A No sir; by ~~adoption~~ marriage.
Q For whom do you apply for enrollment? A Myself, wife and children.
Q Your father and mother are non citizens.? A Yes sir.
Q What is the name of your wife? A Josephine Dawson.
Q How old is your wife? A Thirty one.
Q When were you married to her? A By United States law the 27th of April, 1894.
Q You have never been married by Cherokee law? A Yes sir, the 25th of May, 1893.
Q Have you a certificate of marriage? A Yes sir.

The applicant presents a marriage license and certificate of marriage, issued by the authorities of the Cherokee Nation, in due form, certifying that he was married to one, Josephine Dawson, a citizen of the Cherokee nation on the 25th day of May, 1893.
Q What is the name of your wife's father? A Riel Dawson.
Q What is the name of her mother? A Catherine.
Q Are they living? A Yes sir.
Q How old is your wife? A Thirty one.
Q Do you know what degree of Cherokee blood she has?
A One sixteenth.
Q What are the names of your children under twenty one years of age? A Dora.
Q How old is Dora? A Fourteen.
Q Is that all of her name? A Yes sir.
Q What is the name of the next one? A Ida.
Q How old is Ida? A Thirteen.
Q What is the name of the next one? A Annie.
Q How old is Annie? A Ten years old.
Q What is the name of the next one?A A Blanch.
Q How old is Blanche? A Eight.
Q Next one? A May.
Q How old is May? A Six years old.
Q Next one? A Oscar.
Q How old is Oscar? A Two years old.
Q Six children? A Yes sir.
Q Are these children all living and living with you at this time?
A Yes sir.
Q How long have you lived in the Cherokee Nation? A Since 1892.
Q You have been living here since 1892? A Yes sir.
Q Is your wifes name on the roll of 1880? A No sir.
Q By what right does she claim citizenship.?
A On her father's side.
Q Is her father's name on the roll of 1880? A 1880 I believe.
Q Have you a certificate of adoption? A I reckon.
Q Your wifes mother's name is Catherine? A Yes sir.
The applicant presents a certificate of adoption, issued from the office of the Cherokee Nation on the 11th day of January, 1893, signed by W. H. Hays, Assistant Executive Secretary, under the seal of the Cherokee Nation, in which appears the name of Riel Dawson, whom he claims to be the father of his wife. His wifes name, nor the name of his wifes mother appear in the certificate: Your wife has no claim to citizenship: When was your wife born?
A The thirteenth of May, 1870.

Q And her father was admitted the 11th of January, 1893?
A Yes sir.

(1896 Roll, Page 365, #38, August Bulawsky, Delaware District)
(1896 Roll, Page 440, #301, Josephine Bulawsky, Delaware D'st)
(1896 Roll, Page 440, #302, Dora Bulawsky, Delaware District)
(1896 Roll, Page 440, #303, Ida Bulawsky, Delaware District)
(1896 Roll, Page 440, #304, Annie Bulawsky, Delaware District)
(1896 Roll, Page 440, #305, Blanche Bulawsky, Delaware District)
(1896 Roll, Page 440, #306, Bettie May Bulawsky, Delaware D'st)

The name of August Bulawsky appears on the census roll of 1896. The name of his wife also appears on the census roll of 1896, and the names of his children, as enumerated in the testimony appear upon the census roll of 1896, except his youngest child, Oscar, born after said rolls were compiled, for which he presents satisfactory proof of birth. Satisfactory proof of residence has been made: The applicant applies for enrollment as an intermarried citizen, by reason of his marriage to Josephine Dawson, in the year 1896, but the name of Josephine Dawson is not found upon the authenticated roll of 1880, and no certificate of admission is presented as to her. The applicant claims citizenship for her through her father, Ned Dawson, who was admitted to citizenship in the year 1893, long after the birth of the said Josephine Dawson. No proof whatever is presented as to the admission to citizenship of the said Josephine Dawson: Consequently, final decision as to the application of the said August Bulawsky for the enrollment of his wife, ~~and~~ minor children ~~and his wife~~ as Cherokees by blood, and himself as a citizen by intermarriage, is suspended, and their cases will be placed upon a doubtful card.

The Cherokee Nation avers, by its representatives that even if the said Josephine Dawson was admitted, it was done through fraud. Their cases will all be placed on a Doubtful Card, he as an intermarried citizen, and his wife and children as citizens by blood.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Brown

Subscribed and sworn to before me
this 22nd day of September, 1909.

C A Burns

COMMISSIONER.

D 365

ACTING CHAIRMAN.

(DAWSONnCASE)
Cherokee B-565.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 6, 1902.

In the matter of the application of August Bulawsky for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Josephine, and children, Dora, Ida, Annie, Blanche, May and Oscar Bulawsky, as citizens by blood of the Cherokee Nation; he being sworn and examined by the Commission, testified as follows:

Q What is your name? A August Bulawsky.
Q What is your age? A Forty-four.
Q What is your postoffice? A Afton.
Q Are you the same August Bulawsky that made application to this Commission for enrollment as an intermarried citizen on September 20, 1900? A Yes sir.
Q What is your wife's name? A Josephine.
Q Is she living? A Yes sir.
Q Is she a Cherokee by blood? A Yes sir.
Q When were you and your wife, Josephine, married? A We married in '84 by state law, and '95 by Cherokee law.
Q Were you ever married prior to your marriage to your wife, Josephine?
A No, she was my first wife.
Q Was she ever married before? A No sir.
Q You her first husband? A Yes sir.
Q Have you and your wife, Josephine, lived together all the time as husband and wife ever since you were first married? A Yes sir.
Q Never were separated? A No sir.
Q And you never married any other woman? A No sir.
Q And were you living together as husband and wife on the first day of September, 1902? A Yes sir.
Q How long have you lived in the Cherokee Nation? A In '86.
Q You lived in the Cherokee Nation all the timesince '86? A Yes sir.
Q Has your wife lived all the time since '86 in the CherokeeNation with you? A Yes sir.
Q Now then these children, Dora, Ida, Annie, Blanche, May and Oscar, are they your children by your wife, Josephine? A Yes sir.
Q Have they lived in the Cherokee Nation all their lives? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. L. Rothenberger

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

T. B. Jones
Notary Public.

CHEROKEE. No. 365

August B Shanky et al

April 12, 1904 [illegible] has
since transferred to Cherokee
[illegible]

COPY OF TESTIMONY FILED
WITH THE CHEROKEE NATION.

OCT 2 1907 On roll of [illegible] trans-
ferred to Cherokee [illegible]

See 3 24

Cher D 366

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 29th, 1900.

IN THE MATTER OF THE APPLICATION OF JAMES R. McCRARY FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND ONE CHILD, AS CHEROKEE CITIZENS.

The said James R. McCrary, being sworn and examined by Commissioner T. B. Breckinridge, testified as follows:

Q What is your full name? A James R. McCrary.
Q How old are you? A Twenty-nine.
Q What is your post office? A Vinita.
Q What district do you live in? A Coeweseenwee.
Q Who is it you want to have put on the roll? A Myself, my wife and one kid.
Q Do you apply for yourself as a Cherokee by blood? A Yes, sir.
Q What proportion of Cherokee blood do you claim? A One-eighth.
Q Is your wife a Cherokee? A No, sir.
Q How long have you lived in the Cherokee Nation? A Why, about twenty-seven years, I guess.
Q Are you on the roll of 1880? A Yes, sir.
Q From what district? A Coeweseenwee.
Q Are you on the 1896 roll from the same district?
A Yes, sir.
Q Give me the name of your father, please.
A W. H. McCrary.
Q Cherokee or white man? A Cherokee.
Q Is he dead or alive? A He is dead.
Q How long since he died? A About three month ago.
Q Your mother's given name?
A Jemima.
Q Cherokee or white woman? A White woman.
Q Is she dead or alive? A She is alive.
Q Your wife's name, please? A Laura.
Q How old is she? A Twenty-four, I believe.
Q When did you marry her? A July 1895.
Q Have you a certificate of marriage? A No, sir. It is at Tahlequah I think though. It was sent up and recorded and I never got it back.
Q Has she lived with you ever since her marriage? A Yes, sir.
Q The name of your child, please? A Jack W.
Q How old is he? A Five years old.
Q When was that child born? A In September 1895. It is about five years old.
Q You were married in July 1895, and the child was born in September 1895, is that right? A Yes, sir.

1880 Roll, page 135, No. 1844, James McCrairy, Coeweseenwee District.
1896 Roll, page 207, No. 3048, James McCrairy, Coeweseenwee District.
1896 Roll, page 213, No. 637, Laura McCrairy, Coeweseenwee

District.

1896 Roll, page 207, No. 3049, Jack W. McCraig, Cowpeescawee District.

THE COMMISSIONER: The applicant applies for the enrollment of himself, his wife and one child. He is identified on the rolls of 1880 and 1896 as a Native Cherokee. He has lived in the Cherokee Nation all his life and he will be listed now for enrollment as a Cherokee by blood. His wife is identified with him on the roll of 1896. He states that they were married in 1895, but does not present at this time a marriage certificate to establish the date of their marriage. The child is identified with its parents on the roll of 1896. The date of the child's birth is given as September 1895. The application for the enrollment of the mother and child will at present be placed upon a doubtful card, and the applicant is desired to supply the Commission with his certificate of marriage or an official copy thereof, and when the decision of the Commission is declared finally, it will be communicated to him at his post office address, and forwarded to the Secretary of the Interior for his final approval.

---o---

The undersigned being sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this case, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm. S. McAlister

Subscribed and sworn to before me this 1st day of October A. D. 1900.

Commissioner.

D 366

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1900

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 28, 1900.

D. 366.

In the matter of the application for the enrollment of Laura McCreary.

W. C. Meins, being sworn and examined by Commissioner Brookenridge, testified as follows:

Q What is your name? A W. C. Meins.
Q Your age? A 63.
Q Your post office? A Vinita.
Q You appear now in the case of the application of Laura McCreary and you want to provide evidence called for in regard to his marriage?
A He asked me to hand you this paper.

(There is presented now an official copy of the certificate of marriage of J. R. McCreary, showing that he was united in marriage to Laura Faulkner by the Rev. S. A. Candwell, on July 4, 1895. This is taken from the records of Cooweescoowee district, furnished under the seal of his office, by Assistant Executive Secretary of the Cherokee Nation, and is filed herewith.)

---o---

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 1st of October, 1900.

Commissioner.

D 366

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1908

ACTING CHAIRMAN.

CHEROKEE B 366.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Laura McCrary, et.al. for enrollment as Cherokee citizens.

On the 20th day of September, 1900, James R. McCrary appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of himself and child, Jack W. McCrary, as citizens by blood of the Cherokee Nation, and for his wife Laura, as a citizen by intermarriage of the Cherokee Nation.

At the conclusion of the evidence offered at that time James R. McCrary was listed for enrollment on a regular card and the names of his wife Laura, and his child Jack W. McCrary, were placed upon a "Doubtful" card awaiting proof of marriage.

Further evidence in that matter has been submitted to the Commission and the following decision is rendered.

D E C I S I O N.

--oOo-- --oOo--

From all the evidence of record in this case it appears that Laura McCrary is a white woman; that she was married on the fourth day of July, 1895 to James R. McCrary, a citizen by blood of the Cherokee Nation. He is duly identified on the authenticated tribal roll of 1880. She and her husband have lived together in the Cherokee Nation ever since. She is identified on the Cherokee Census roll of 1896.

Their child, Jack W. McCrary was born in September, 1895, only two months after their marriage, but being born in wedlock he is presumed in law to be the child of James R. McCrary. He is identified on the Cherokee Census roll of 1896.

This Commission is making rolls of citizenship of the Cherokee

Nation is governed by the following provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495);

"That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

In view of the facts and the law in this case it is considered that Laura McCrary is entitled to be enrolled as a citizen by intermarriage of the Cherokee Nation, and that Jack W. McCrary is entitled to be enrolled as a citizen by blood of the Cherokee Nation.

It is therefore so ordered.

Commissioners.

Dated at Muskogee, Indian Territory,

JUN 9 - 1902

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cher. D-966.

Muskogee, Indian Territory, June 9, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

Enclosed herewith please find copy of the decision of the Commission rendered June 9, 1902, in the matter of the application of Laura McCrary et al for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the persons above named as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Yours truly,

Tams Bixby

Acting Chairman.

Encl. D-966.

IN THE MATTER OF THE APPLICATION OF

APPLICATION OF

Laura McTeranny et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

CITIZENS

A. Original testimony September 20. 1900
B. Mem° of application " 20. 1900
C. Additional testimony " 28. 1900
D. Certified copy of Marriage Certificate

Left in [illegible] and [illegible]

Examined

See Cherokee Docket 3[illegible]

Cher D 367

Department of the Interior,
Commission to the Five Civilized Tribes,
Fairland, I. T., July 11th, 1900.

In the matter of the application of Henry Edmonds et al for enrollment as Shawnee Indians; being sworn and examined by Commissioner Needles, he testifies as follows:

Q What is your name? A Henry Edmonds.
Q What is your age? A Sixty-four.
Q What is your post-office address? A South-west City
Q Where do you live? A Right on the line, close to Southwest City.
Q In the Territory? A Yes sir.
Q You make your residence there? A I have for a year and four months.
Q Where did you live before that? A At Vinita three years.
Q Where did you live before that? A Right on the line eight years.
Q Have you been living in the Territory here during this time?
A Yes sir, since '70.
Q You are a Cherokee? A Shawnee.
Q You make application as a Shawnee by blood? A No sir, by adoption.
Q Is your name on the 1880 roll? A Yes sir, I think so.
Note; 1880 roll examined, and name not found.
1896 roll examined, and name found on page 341, #150, Henry Edmond, Cooweescoowee District.
Q When were you married? A In the year 1860.
Q Who to? A Mary Hann.
Q Is she alive? A No sir. She is dead; she died in '76.
Q Have you been married since that? A Yes sir.
Q How many times have you been married? A Twice.
Q What is your second wife? A Cherokee.
Q What was her name before you married her? A Susanna England
Q When did you marry Susanna England? A In 1878.
Q What is her age now? A She was born in 1834.
Note; 1880 roll examined for this woman's name, and not found.
Q Is your present wife alive? A Yes sir.
Q Is she here? A Yes sir.

Susanna ~~England~~ Edmonds being sworn and examined by Commissioner Needles testifies as follows:

Q What is your name? A Susanna Edmonds.
Q What is your age? A I am fifty-seven years old.
Q Are you a Cherokee by blood? A Yes sir.
Q Is your name upon the roll of 1880? A No sir.
Q When were you married? A I was married in 1878.
Q What was your name before you was married? A Harris. I was married before I married this man; my maiden name was England.

Applicant re-called and examined by Cherokee Attorney Hastings.
Q Your children took reservations? A No sir, none of us.
Q You have lived here since 1880 and they have also? A Yes sir.

Com'r Needles:
Q Why aint you on the 1880 roll? A I don't know.
Note; 1896 roll examined, and applicant found on page 341, #150 as Henry Edmonds, a Shawnee by intermarriage. ~~Page~~ 94, Roll, #1434, Cooweescoowee District, Susie Edmonds.

Com'r Needles to Mrs. Edmonds: Is that your name? A Yes sir.
Q You drew strip money in 1894? A Yes sir.

Q You were never on any other rolls except that were you?
A Yes sir, I have drawed money before 1894.
Q In what district did you live in 1880? A I lived in Coo-weescoowee District, Vinita.
Q Under what name did you live there? A Edwards.
Q Where were you born? A I was born in the Cherokee Nation.
Q What was your father's name? A Joe England.
Q Is white man? A No sir, Indian.
Q Was he a Cherokee? A Yes sir, he was an old Settler in this country.
Q What is your mother's name? A Sabra Cooper.
Q Was she a Cherokee Indian? A Yes sir.
Q You were born in the Cherokee nation? A Yes sir.
Q Have you lived in the Cherokee nation ever since? A Yes sir, I never lived out of it.
Q Have you drawn money all the time in the Cherokee nation?
A Sometimes I would and sometimes I wouldn't.
Q Have you always been recognized by the Cherokee people as a Cherokee? A Yes sir, I am a full sister to Neal England.
Q Did you have any brothers and sisters? A Yes sir, I have one living brother, B. C. England, and I have two whole sisters, Lou Shagy and Sabra Ware. I drawed at Claremore, Coowescoowee District, $17.30, and I drawed bread money; I don't know how many payments I have drawed at.
Q Was your name ever Anna Harris? A No sir.
I took reservation, but they would not let me live on it.
Q Atty Hastings: What did you do with it? A My husband, Harris, drunk it up, run through with it and died over it.
Q Where did he die? A In the Cherokee nation, over on Grand River.

This case is continued until the appointment at Vinita, and applicants are advised to get further proof of their rights to be enrolled as citizens of the Cherokee nation and appear before the Commission at that place, in September, 1900.

M.D.Green, being first duly sworn, states that as stenographer to the commission to the five civilized tribes he reported the foregoing case and that the above and foregoing is a full true and complete transcript of his stenographic notes in said case.

M D Green

Subscribed and sworn to before me this 11th day of July 1900.

Commissioner.

a D 367

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUL 12 1900

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 20, 1900.

In the matter of the application of Henry Edmond for the enrollment of himself, wife and child.

Additional testimony.
(Suspended Case No. 4.)

Henry Edmond, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Henry Edmond.
Q What is your age? A 60.
Q What is your post office address? A Southwest City, Mo.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A No, sir, by the treaty of 1868.
Q Are you an indian by blood or are you a white man? A No, sir.
Q Are you an indian by blood or are you a white man? A I am almost a white man.
Q You are a white man, are you not? A Yes, sir, I am recognized.
Q What is the name of your wife? A Susanna England.
Q What is her age? A She is 54.
Q What is her post office address? A Southwest City.
Q You claim that she is a citizen by blood? A Yes, sir.
Q What do you of blood? A About 1/8.
Q Do you apply for some children? A Yes, sir, one.
Q What is the name of it? A William.
How old is he? A 16.
Q That the only child? A The rest is married.
Q This child alive and living with you? A Yes, sir.
(Henry Edmond on 1896 roll, page 341, No. 150, Cooweescoowee dist. William Edmond on 1896 roll, page 152, No. 1585, William Edmond, Cooweescoowee district.)
Q You claim for your wife, do you? A Yes, sir.
(On 1880 roll, page 184, No. 1434, Susie Edmons, Cooweescoowee district.)
Mr. W.T.Hutchings, attorney for Cherokee Nation: Where were you and your wife from the date of your marriage until 1880? A Right here in the Nation.
Q Where? A Up on Russell Creek.
Q In what district? A Delaware district.
Q Did you or she draw in the payment for which the roll of 1880 was made? A Yes, sir.
Q You are certain of that? A I am not certain, but I think I did.
Q How is it your names do not appear on the roll of 1880? A I can't tell you.
Q Was she living out in the strip at the time you married her? A No, sir.
Q Living therein the Nation? A Yes, sir.
Q Do you know how long she resided out there in the strip? A No, sir, I don't know anything about it, didn't know anything about the strip until after I married her.
Q You have never resided outside of the Cherokee Nation since you came here with the Shawnees? A No, sir, been here ever since.
Mr. W.W.Hastings, representative of the Cherokee Nation: You knew that prior to your marriage that your wife had taken a reservation in Kansas when she was the wife of a man by the name of Harris? A Not till after I married her.
Q You know that now from information from her? A Yes, sir, but she never got any benefit of it, that fellow just drunk it up and destroyed it, she never got in possession of it at all.

Henry Edmond - 2.

Commissioner Needles: The name of Henry Edmond appears upon the census roll of 1896. The name of his wife Susanna does not appear upon the roll of 1896, neither upon the roll of 1880. Neither does the name of the applicant appear upon the roll of 1880. The name of his wife appears upon the pay roll of 1894. The name of his son, William, appears upon the census roll of 1896. They being duly identified according to page and number of the roll, and having made proof as to their residence, but no satisfactory proof as to their citizenship, final judgment as to the application of the said Henry Edmond for himself, wife and child will be suspended and their names will be placed upon a doubtful card.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 20th of September, 1900.

C. Merrill

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 10, 1901.

In the matter of the application of Henry Edmond et al., Cherokee Doubtful case #387; SUPPLEMENTAL TESTIMONY on the part of the applicant

Appearances:
Mellette & Smith for the applicants
Messrs W. W. Hastings and J. L. Baugh for the Cherokee Nation.

HENRY EDMOND being first duly sworn by Com'r T. B. Needles, testified as follows in his own behalf:

(By Mellette)
Q What is your name? A Henry Edmond.
Q How do you claim citizenship in the Cherokee Nation? A Under the treaty of '66 and by adoption.
Q What treaty is that? A The treaty between the United States, Cherokees and the Shawnees.
Q Do you claim to be a Shawnee Indian? A No sir, not by blood, only by adoption.
Q When did you move into the Cherokee Nation? A In '71.
Q What time of the year? A Long in the fore part of the year, the winter, or pretty cool weather anyway.
Q You say in your original examination that you moved here in '70 how is that? A I came the same time that uncle Charlie Bluejacket came.
Q Is your name on the roll of the 778 Shawnees who came here under the treaty made between the Shawnees and Cherokees? A Yes sir.

By Mr. Mellette:
" If the Commission please I would like to have the Shawnee roll's examined for this applicant's name "

Roll of the names of members of the Shawnee Tribe of Indians who moved to and located in the Cherokee Nation Indian Territory prior to the 10th day of June 1871, within two years from the 9th day of June 1869, in accordance with an agreement entered into by and between the Shawnee Tribe of Indians and the Cherokee Nation of Indians through their Delegate at Washington City, D. C. on the 7th day of June 1869 and approved by the President of the United States on the 9th day of June 1869 in accordance with the Fifteenth Article of the ~~Treaty~~ Cherokee Treaty of 1866, examined and the name of Henry Edmond is found thereon as number 308

By Mr. Mellette: (Of witness)
Q Did you have any children that came with you? A Three.
Q What were their names? A Mary, Samuel and Frank.

The name of Mary and Samuel Edmond, whom applicant avers to be his children are also found on said roll as numbers 307 and 308 The name of Frank Edmond is not found on said roll.

(By Mr. Mellettee of applicant)
Q Where have you lived since you came here with the Shawnees? A In the Cherokee Nation in Delaware and Goomeescoowee district.
(By Mr. Hastings)
Q Where did you marry your present wife? A Right here at Timber Hill.
Q Who married you? A Mr. Bluejacket.
Q When? A February——I have it at home, I forgot the date exactly.
Q You dont know how many years ago? A About 16 years ago.
Q Where were you in 1886? A Right here in this country, on Honey Creek
Q What was your first wife's name? A Annie.
Q When did she die? A She died along in 60——I can't say positively—long about '60 or '70, I have the date set down—my memory is limited but I have got it down.

Q Did you ever go back to Kansas since you first moved here? A No sir
Q Ever work there since? A No sir.
Q Ever visitthere? A No sir.
Q You married a woman, after the death of your first wife, named England? A Yes sir.
Q You are a white man? A Yes sir.
Q You don't claim any Indian blood for yourself? A No sir.
Q You were adopted by the Shawnee tribe by reason of your marriage to a Shawnee woman? A I don't know if it was by that reason or not.
Q How did you get adopted then? A I just got the papers.
Q Wasn't it beacuse you were married to a Shawnee woman? A I have an idea it was.
Q Was your first wife living when you came here? A Yes sir.
Q She died after you came here? A Yes sir on Russell Creek
Q Neither you or your present wife are on the 1880 roll? A No sir I got out with the Solicitors that taken the names in 1880, it was prejudice that they had against her and they taken and put red ink to me and left her off.
Q How do you know they used red ink or any other kind of ink? A Because I seen it .
Q Where did you see it? A Right here at Vinita.
Q Don't you know that the Solicitors never made a census that year.
A Well it was the census takers, the men who took the names did it.
Q Who were they? A Stance Watie,Joe Muskrat and Joe Thompson.
Q Who had the books? A Stance Watie had it and then he left and then Joe Muskrat had it.
Q You never saw Joe Thompson with it? A Never followed them up to see

THOMAS BLUEJACKET being first duly sworn by Com'r T. B. Needles testified as follows on the part of the applicant:

(By Mellette)
Q What is your name? A Thomas Mx Bluejacket.
Q Where do you reside? A Vinita at present.
Q What is your citizenship——are you a citizen of the Cherokee Nation?
A I suppose I am.
Q What is your bloodd? A Shawnee.
Q How old are you? A About 60.
Q How long have you lived in the Cherokee Nation? A Since '71.
Q Are you a recognized citizen of the Cherokee Nation? A I suppose so.
Q Do you know Henry Edmond, the applicant here? A Yes sir.
Q Where did you first get acquainted with him? A Douglas County,Kansas
Q With what people did he live with up there? A With a Shawnee woman when I knew him first.
Q When did you next see him after you saw him there? A I saw him there for a good many years.
Q Where did you next see him? A In the Cherokee Nation.
Q When did you first see him in the Cherokee Nation? A Saw him in '71.
Q Where was he living then? A On Cabin Creek 10 or 15 miles from here.
Q Where has he lived since that time? A Here in town a while.
Q What country has he lived in since? A Cherokee Nation.
(By Hastings)
Q Have you known him all the time since he came here first? A Yes sir
Q Did you ever know of him going back to Kansas since? A I dont know of that.
Q Have you seen him frequently here? A Yes sir every once in a while.
Q Where did he marry this second woman? A I don't know.
Q He is a white man himself? A Yes sir.

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This will be filed with the case of Henry Edmond,Cherokee Doubtful case No. 367.

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-4-

Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas. von Weise

Subscribed and sworn to before me this the 10th of October, 1901.

Commissioner.

"R"

Cherokee D 367

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25,1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Henry Edmonds for the enrollment of himself, wife and children as Cherokee citizens.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita,I.T., attorneys for applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant and his attorneys were notified by registered letter February 6th, 1902, that this case would be taken up for final consideration by the Commission on the 25th day of February, 1902, - receipt has been acknowledged of the Commission's letter. Applicant this day appears by his attorneys , Mellette & Smith, Vinita, I. T.

BY MR. MELLETTE: The attorneys for the applicant state that the applicant cannot furnish to the Commission a certificate of the marriage of himself and his present wife. And wish to introduce two certificate in regard to the Shawnee roll of 1870.

BY COMMISSION: The attorney for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record. The attorney for the applicant requests and will be granted 15 days in which to file brief in this case one copy with the Commission and one copy with the Representatives of the Cherokee Nation.

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M.D.Green,being first duly sworn,states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27,1902.

Commissioner.

Cherokee D 367.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 16, 1902.

In the matter of the application of Henry Edmonds for the enrollment of himself as a citizen by intermarriage, and for the enrollment of his wife, Susanna Edmonds, and his son, William Edmonds, as citizens by blood, of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

HENRY EDMONDS, being sworn, testified as follows:

By the Commission,

Q What is your name? A Henry Edmonds.
Q What's your age at this time, Mr. Edmonds? A Sixty-two.
Q What's your postoffice? A Afton.
Q It was Southwest City when you applied before? A That was my postoffice address.
Q Are you an applicant for enrollment as an intermarried citizen? A Yes, sir.
Q What was your wife's name? A Susanna.
Q Is she a Cherokee by blood? A Yes, sir.
Q Is she living at this time? A Yes, sir.
Q When were you married to your wife, Susanna? A '78.
Q You were married to her in '78? A Yes, sir.
Q Were you ever married priar to your marriage to your wife, Susanna? A Yes, sir.
Q How many times had you been married before that? A Once before.
Q Susanna is your second wife? A Yes, sir.
Q Had Susanna ever been married before her marriage to you? A Yes, sir.
Q How many times? A One, I think.
Q Do you know what her first husband's name was? A Harris.
Q Was he living or dead? A He was not living.
Q So you're the second husband of Susanna and she's your second wife? A Yes, sir.
Q No, Mr. Edmonds, what was your first wife's name? A Nanny Hendrix.
Q Was she living or dead when you married Susanna? A Dead.
Q Was she a citizen of the Cherokee Nation? A She was a Shawnee.
Q She was a Shawnee? A Yes, sir.
Q When were you married to your first wife?

The applicant presents a certificate of the head chief and assistant chief of the Shawnee Tribe of Indians, certifying that Henry Edmonds was legally married to Anna Ham, a member of the Shawnee Tribe of Indians, and regularly adopted as a member of said Tribe with all the rights, titles, privileges and immunities of said Tribe of Indians from and after the date first above written. The same is dated at the Shawnee Council Room, Johnson County, Kansas, October 4, 1869.

The same is also attested by S. M. Cornatzer, Council Clerk. The same is filed herewith.

Q This certificate shows that you were regularly adopted as a member of the Shawnee Tribe of Indians? A Before I came here.

Q Now, Mr. Edmonds, did you come to the Cherokee Nation with the Shawnees who came under the treaty of '69? A Yes, sir.
Q Are you on the register of Shawnees who came at that time?
A Yes, sir.

From an examination of the printed list in the possession of the Commission of the Shawnees who came to the Indian Territory prior to the 10th day of June, 1871, in accordance with an agreement entered into by and between the Shawnee Tribe of Indians and the Cherokee Nation, on the 7th day of June, 1869, and which was approved by the President of the United States on the 9th day of June, 1869, the name of Henry Edmonds appears thereon as No. 306, and his wife, Anna Edmonds, as No. 306.

Q Now, Mr. Edmonds, have you resided in the Cherokee Nation all the time since you came here in 1871 up to the present time? A Yes, sir.
Q Never lived out of the Cherokee Nation since? A No, sir.
Q How long has your wife, Susanna, lived in the Cherokee Nation?
A What is it?
Q Your wife Susanna? A She was born here.
Q Lived in the Cherokee Nation all her life? A She is a citizen.
Q This child, William, is he your child by your wife, Susanna?
A Yes, sir.
Q Is he living at this time? A Yes, sir.
Q Has he lived in the Cherokee Nation all his life? A Yes, sir.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 8th day of November, 1902.

B O Jones
Notary Public.

Q. Now, Mr. Simmons, did you or do you know Rachel Ann Sharp, the Shawnee who came under the Treaty of 1867? A. Yes, sir.
Q. Are you the relative of Shawnee who came at that time?
A. Yes, sir.

Upon an examination of the original roll of the Shawnees who came to the Indian Territory prior to the 30th day of June, 1867, in accordance with an agreement entered into between the Shawnee Tribe of Indians and the Cherokee Nation, on the 7th day of June, 1867, and by law approved by the President of the United States on the 7th day of June, 1872, the name of Rachel Sharpe appears thereon as No. 3[illegible], and the wife of Shawnee Simmons, as No. 10[illegible].

Q. Now, Mr. Simmons, have you resided in the Cherokee Nation all the time since you came here in 1871 up to the present time? A. Yes, sir.
Q. Never lived out of the Cherokee Nation since? A. No, sir.
Q. How long has your wife, Susanna, lived in the Cherokee Nation?
A. Most its life.
Q. Her maiden name? A. She was born here.
Q. Lived in the Cherokee Nation all her life? A. She is a citizen.
Q. This child, William, is he your child by your wife, Susanna?
A. Yes, sir.
Q. Is he living at the time? A. Yes, sir.
Q. Has he lived in the Cherokee Nation all his life? A. Yes, sir.

Delia Quick, being first duly sworn, on her oath, as interpreter to the commission, in the Lower Cherokee Nation, recorded the testimony and proceedings in the matter of the Cherokee Application, and that the above is a true and complete transcript of the stenographic notes thereof.

[illegible]

Subscribed and sworn to before me this 8th day of November, 1902.

[illegible]

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES,

IN THE MATTER OF THE APPLICATION OF HENRY EDMOND, FOR THE ENROLLMENT OF HIMSELF, WIFE AND CHILD AS CHEROKEE CITIZENS. CHEROKEE DOUBTFUL.

NO. 367.

-:BRIEF AND ARGUMENT FOR APPLICANT.:-

The testimony in this case shows that the applicant Henry Edmond, came to the Cherokee Nation as a member of the Shawnee Tribe of Indians, in 1870, under and by virtue of the treaty between the Cherokees and Shawnees.

His name appears upon the roll of 772 Shawnees who were received into the Cherokee Nation by the authorities thereof and were registered according to the provisions of the treaty between the Cherokees and Shawnees.

There is incorporated in the testimony in this case the certificate of Lewis Downing, Chief of the Cherokee Nation, certifying that all those whose names appear upon the roll of 772 Shawnees are registered and received into the Cherokee Nation as citizens thereof. There is also incorporated in the testimony the certificate of Graham Rogers, and Charles Tucker, late Chief and Assistant Chief of the Shawnee Tribe of Indians, dated August the 3rd, 1871, to said 772 Shawnees, to a true copy of the register of the members of the Shawnee Tribe of Indians who moved to the Cherokee Nation under the treaty. These two certificates are attached to the roll of 772 Shawnees who located in the Cherokee Nation as aforesaid.

The agreement between the Shawnees and Cherokees was entered into in 1869, and provides in substance, that the Shawnees residing in Kansas or elsewhere should be received as citizens of the Cherokee Nation in consideration of certain funds being transferred by the Shawnees for the use and benefit of the Cherokee Nation. Said treaty in full is to be found upon page 403, of the Laws of the Cherokee Nation published in 1892. Said agreement provides among other things as follows:

"And that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect and with all the privileges and immunities of native citizens of said Cherokee Nation: provided, that all of said Shawnees who shall

[illegible]

elect to avail themselves of the provisions of this agreement shall register their names and permanently locate in the Cherokee country as herein provided within two years of the date hereof."

The testimony shows that this applicant arrived in the Cherokee Nation in the year 1870, and that he has lived here continuously since that time.

The Shawnees [illegible] the Cherokee [illegible] under the treaty aforesaid, [illegible] the same attitude as the Delawares, and [illegible] under [illegible]. The Supreme Court of the United States in case of the Cherokee Nation vs. Hitchcock, [illegible] the rights of the Delawares [illegible] the Cherokee Nation [illegible] in controversy, Book [illegible], U. S. [illegible], used the following language:

"[illegible] other than the [illegible] of the agreement, [illegible] the registered Delawares, [illegible] of the tribes who chose to [illegible] Indian territory, were not only to become citizens of the Cherokee [illegible] to at [illegible] with the native Cherokees in all the [illegible] citizenship in the Cherokee nation; [illegible] the Cherokees and, the registered Delawares were to have, [illegible] to the [illegible]; but to [illegible] the Cherokees. [illegible] not inserted [illegible] to grant [illegible] to their identity and the rights [illegible]."

[illegible] the United States, Book [illegible], U. S. [illegible], [illegible] Court of the United States [illegible]:

"[illegible] the Shawnees [illegible] the agreement in question. If of the treaty [illegible] between [illegible] the United States. [illegible] differences [illegible] between the Cherokees and the Shawnees, [illegible] provision for the purchase of homes or any payment of money on account thereof [illegible] the United States; [illegible] there is [illegible] statement that the said Shawnees shall be incorporated into [illegible] of equal [illegible] every respect and with all the privileges and immunities of [illegible] the Cherokee Nation. Now the [illegible] stated [illegible] the other case (meaning the Delaware case) it [illegible] the intermarriage [illegible] equal rights [illegible] the native Cherokees in that [illegible] the common property of the [illegible] Nation, to all the [illegible] and the out-lot, as well as [illegible] to each thereof."

[illegible] that the applicant Henry [illegible], is [illegible] blood, but so far as the Cherokee Nation is concerned he is a native Cherokee. The Cherokees received him as a member of the Shawnee Tribe

#3. Second.

He is one of those Shawnees for which the Cherokee Nation received compensation for the right with which he was to be invested in the Cherokee Nation. He does not stand in the attitude of a white man who married a Cherokee Indian woman under the laws of the Cherokee Nation. Art. 76, page 229 of the Compiled Laws of the Cherokee Nation 1892, provides for the accretion of white men who come into the Cherokee Nation and marry Indian women. Section 666 of the Art. mentioned reads as follows:

"Should any man or woman, a citizen of the United States or of any foreign country become a citizen of the Cherokee Nation by intermarriage and to leave a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman or a person having no rights of Cherokee citizenship by blood: in that case all of his or her rights acquired under provision of this act shall cease."

It is claimed by the representatives of the Cherokee Nation that the applicant Henry Second, has "married out" under the section above quoted and because of the fact that he married a woman who was not recognized as a citizen of the Cherokee Nation, he thereby lost his citizenship.

We contend that this position is not well taken. It is only necessary to call attention to the fact that Henry Second, is not a citizen of the Cherokee Nation by intermarriage. He does not stand in the attitude of a white man who became a citizen under the Cherokee law above referred to. The section of the Cherokee law above quoted is not at least the law applicable to him. It only applies to white men coming into the Cherokee Nation and marrying Cherokee, Shawnee or Delaware women and thereby gaining a right.

As before stated, the applicant located in the Cherokee Nation as a registered Shawnee with all the rights of a native Cherokee. He could not lose his rights by marrying a non-citizen woman any more than a full blood Cherokee could. On the other hand he could invest the non-citizen woman with citizenship in the Cherokee Nation the same as a full blood Cherokee, by intermarriage, and all children of that marriage would be citizens of the Cherokee Nation.

We desire also to call attention to the fact that even a white

Edmond.

man married a Cherokee woman and was adopted into the Cherokee Tribe by said marriage he would not lose his rights as a Cherokee citizen by marrying a white woman after the death of his Indian wife unless the courts of the Cherokee Nation caused this adopted white citizen to be regularly brought before them by the solicitor of the District to cause an adjudication of the case to be made in the premises by declaring that an adopted white citizen had lost his rights because of his second marriage. See section 169, page 333, Compiled Laws of the Cherokee Nation, 1892.

The testimony in this case shows that the applicant Henry Edmond, married his present wife in the year 1878. The testimony shows that she is a citizen by blood of the Cherokee Nation. She testifies that she is a sister of Neal Midland, a Cherokee who lives in Atoka, Ind. Territory. An attempt was made to show that she took a reservation and thereby divested her right to claiming a part of the public domain of the Cherokee Nation. This fact however was not established by proof. She is on the roll of 1896, as is also Henry Edmond, her husband, and the child William Edmond.

Applicant is unable to furnish the marriage license showing the marriage of these people. The testimony however, shows that they were married by Charles Bluejacket, near Tahlequah, Cherokee Nation, in 1878, and have lived together as man and wife since that time. It must be remembered in this case that until the year 1889, when the United States Court was established in the Indian Territory, there was no general law in the Indian Territory providing for the issuing of marriage licenses. The Cherokee Nation had no law providing that citizens must obtain a license before marriage and it was never the practice to do so. The only law the Cherokee Nation had on the subject was as regard to a white man marrying an Indian woman.

The writer has well remembered a strip of ground within the limits of the Cherokee Nation lying opposite the City of Fort Smith, Ark., and it can truthfully be said that thousands of couples were married upon this strip of ground prior to the year 1889, without any

H. Edmond.

sort of license or certificate whatever, and the marriages have uniformally been held good.

We understand that in the case of Pryor against Davis, recently decided in the court of appeals, it has been held that a common law marriage in the Indian Territory was good; although we have not seen the opinion. ~~But~~ The marriages in the Indian Territory prior to 1889, were solemnized by a minister of the gospel, but without any authority which might have been conferred by license. The applicants herein can not furnish a certificate or the marriage license nor any other, but the marriage is proven and is legal under the law.

Respectfully submitted.

Attorney's for Applicant.

Cherokee Doubtful

No 367

Henry Edmond

Brief

Mellette & Smith

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 8th, 1902.

In the matter of the application of Henry Edmond for the enrollment of himself, wife and child as citizens of the Cherokee Nation.

Cherokee D.367.

Brief on behalf of the Cherokee Nation.

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The testimony in this case clearly shows that Henry Edmond was a white man; that he was intermarried with a Shawnee Indian prior to her removal to the Cherokee Nation in 1870; that he came with her; that she died, and that he afterwards intermarried with Susan England, whose name does not appear upon the roll of 1880, nor has she been re-admitted since that time.

Attorneys for applicant argue that in as much as this man's name appears upon the list of 772 Shawnees who were received into the Cherokee Nation by the authorities thereof it was subsequent to that time impossible for the applicant to forfeit his right to citizenship in the Cherokee Nation. This contention seems to the representatives of the Cherokee Nation to be clearly erroneous. He admits that he was a white man; that he has not a drop of Indian blood in his veins, and consequently whatever rights as an intermarried Shawnee he had he got them through his wife; and the fact that his name is upon the list of Shawnees who removed to the Cherokee Nation could certainly give him no greater right than that of an intermarried white man whose name appears upon the roll of 1880. What would be the difference in two persons' rights if one appeared upon the roll of 1880 as a Shawnee by blood and the other as an intermarried white man? So far as property rights are concerned they are the same. Hence we think that it is erroneous to contend that because a man had rights in 1870 that those rights can

not be forfeited. The applicant married Susan England, who was not a recognized citizen in 1878, two years before the roll of 1880 was made. His wife contends that she was of Cherokee blood, but it is admitted in the testimony that she took a reservation in the state of Kansas; that her husband drank it up, which certainly is not chargeable to the Cherokee Nation; but she was never re-admitted to citizenship in the Cherokee Nation since that time; and if she was not born she is clearly not a citizen of the Cherokee Nation. And if not a citizen of the Cherokee Nation Mary Edmond forfeited his right to citizenship by his intermarriage with her in 1878.

The Commission is charged with making a correct roll of Cherokee citizens, and it is directed to take into consideration in making this roll all Cherokee laws, treaties and customs, and the construction placed upon them by the Cherokee authorities. Now, the National Council in 1880 in passing upon this very case decided that inasmuch as this man was a white man and not a Shawnee by blood, and that inasmuch as he married a person who was not a recognized citizen of the Cherokee Nation, that he had forfeited his citizenship in the Cherokee Nation, as provided by Section [illegible] of the Compiled Laws of the Cherokee Nation of 1892.

The Supreme Court of the United States decided in the Roff case, appealed from the Chickasaw Nation, that if the Chickasaw Nation had the power to grant citizenship it could arbitrarily take it away; and the Supreme Court decided in the Stephens case recently appealed from the Cherokee Nation that the question of citizenship did not involve the question of property rights; but that property rights flowed from citizenship. If this be true when the National Council of the Cherokee Nation determined in 1880 by not placing applicants upon that roll that applicant's wife was not a citizen of the Cherokee

Nation and that Henry Edmons had forfeited his right to be enrolled as a citizen of the Cherokee Nation by his intermarriage with her, it determined their status. And subsequent to that time they were not citizens of the Cherokee Nation, and were not entitled to be enrolled as such. The Commission is now engaged in enrolling recognized citizens of the Cherokee Nation, and not in trying anew citizenship cases, as under the act of June 10, 1896. And we contend that neither of these applicants should be enrolled by the Commission as citizens of the Cherokee Nation.

Respectfully submitted,

W W Harding
Attorney for the Cherokee Nation.

Charl[illegible] [illegible]. 1907.
(1)

[illegible].

[illegible].

Cherokee D-367.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Henry Edmonds as a citizen of the Cherokee Nation, and for the enrollment of his wife, Susanna Edmonds, and his minor child, William Edmonds, as citizens by blood of the Cherokee Nation.

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D E C I S I O N.

--:o:--

The record in this case shows that on July 11, 1900, Henry Edmonds appeared before the Commission at Fairland, Indian Territory, and made personal application for the enrollment of himself as a citizen of the Cherokee Nation, and for the enrollment of his wife, Susanna Edmonds, and his minor child, William Edmonds, as citizens by blood of the said Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on September 20, 1901, on October 10, 1901, and again at Muskogee, Indian Territory, on October 15, 1902.

The evidence shows that the said Henry Edmonds is a white man, who was adopted "a member of the Shawnee tribe of Indians with all the rights, titles, privileges and immunities of said tribe of Indians, from and after October 4, 1869". He is identified on the Register of Shawnees who removed to and located in the Cherokee Nation within two years from the 9th day of June, 1869, in accordance with an agreement entered into by and between the Shawnee tribe of Indians and the Cherokee Nation, approved by the President of the United States on June 9, 1869, in accordance with the XVth Article of the Cherokee Treaty with the United States, proclaimed August 11, 1866. The said Henry Edmonds is identified on the 1890 Pay Roll of the Cherokee Nation and the 1896 Census Roll of said Nation, as shown by an examination of said rolls in possession of the Commission. The said Susanna Edmonds is identified on the 1890 and 1894 Pay Rolls of the Cherokee Nation. Her brother, Benjamin C. England, is identified on the 1880 Authenticated Tribal Roll of the Cherokee Nation as a native Cherokee, as shown by an examination of the said rolls in possession of the Commission; and the said Susanna Edmonds is shown to be a Cherokee by blood. William Edmonds is shown to be the minor child of the said Henry and Susanna Edmonds, and he is identified on the 1896 Census Roll of the Cherokee Nation.

The evidence further shows that the said Henry Edmonds has resided in the Cherokee Nation ever since the early part of 1871; that his wife, Susanna, has resided in said Nation all her life; and that they lived together in said Nation as husband and wife continuously since their marriage, up to and including September

Cherokee D-367, # 2.

1, 1902. The minor child, William Edmonds, has resided in the Cherokee Nation from birth continuously, up to and including the date of this application.

It is, therefore, the opinion of this Commission that Henry Edmonds should be enrolled as a citizen of the Cherokee Nation with all the privileges and immunities of a native citizen of said Nation, and that Susanna Edmonds and William Edmonds should be enrolled as citizens by blood of said Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

Department of the Interior

Commission to the Five Civilized Tribes

Vinita I. T. January 3rd 1903.

Inthe matter of the application of Henry Edmonds et al for enrollment as citizens of the Cherokee Nation.

Cherokee D 367.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission rendered in this case on December 10th 1902 and asks that same together with a copy of the brief filed by the Cherokee Nation be forwarded to the Honorable Secretary of the Interior for review.

Respectfully submitted,

Atty for the Cherokee Nation.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 367.

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, December 20, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Henry Edmonds for the enrollment of himself as a citizen of the Cherokee Nation and for the enrollment of his wife, Susanna Edmonds, and his minor child, William Edmonds, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enclosure H. No. 429.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D-367

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, January 23, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:-

You are hereby advised that the Commission has this day transmitted to the Secretary of the Interior, for review, the record of proceedings had in the matter of the application of Henry Edmonds for the enrollment of himself as a citizen of the Cherokee Nation, and for the enrollment of his wife, Susanna, and his minor child, William Edmonds, as citizens by blood of said Nation, together with the Commission's decision, dated December 10, 1902, granting said application, and the protest of the Cherokee Nation against said decision, dated January 3, 1903.

The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Acting Chairman.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-367

Muskogee, Indian Territory, March 24, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 10, 1902, granting the application of Henry Edmonds for the enrollment of himself as a citizen of the Cherokee Nation, and for the enrollment of his wife, Susanna, and his minor child, William Edmonds, as citizens of the Cherokee Nation of Shawnee blood, was affirmed by the Secretary of the Interior on March 11, 1903.

Respectfully,

Chairman.

THE MATTER OF THE APPLICATION OF

Henry Edmonds et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1. Original testimony. July 11. 1900
2. Additional " September 20. 1900
3. Mem^o of application - " 20. 1900
4. Applicants receipt for testimony - Nov. 28. 1900
5. Supplemental testimony. Oct 10-1901
6. ~~Attorney~~ receipt for testimony
7. Notice of final consideration

Copies

Order closing testimony Feb. 25, 1902

Roll of applicants

Cancelled and transferred to Chero. Roll

Division - E

Cher D 368

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 20, 1906.

In the matter of the application of Shadrach C. Wallen for enrollment as a Cherokee by intermarriage; being sworn and examined by Commissioner Dudley, he testified as follows:

Q What is your name? A Shadrach C. Wallen.
Q How old are you? A I am 71.
Q What is your post office address? A Afton, I. T.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Of blood? A No, sir.
Q By intermarriage? A Yes, sir.
Q Who do you apply for for enrollment? A Myself.
Q Anybody else? A No, sir.
Q What is your wife's name? A Eliza Ann Wallen.
Q Was anything said to you about your enrollment? A Yes, sir, our attorney spoke to me.
Q What was the name of his office? A I don't tell you.
Q Where did you marry her? A In 1 .S.
Q Have you been married to her? A Yes, sir.
Q You have been living with her ever since? A No, sir.
Q Where is she? A She was the last I heard of her.
Q Was she your wife? A Yes, sir.
Q How long did you live with her? A Oh, about three or four months.
Q Did you live with her longer than that? A She said I was a liar and I couldn't live with her; I went after her and couldn't find her.
Q Have you ever met her since? A No, sir.
Mr. T. M. Cantrell, commissioner in charge of the Cherokee office: What do you do? A I farm. Q Are you a full blood Cherokee? A No, sir, I am a half blood Cherokee.
Q How old are you? A I don't tell you exactly, probably 65 or 70.
Q How long have you been married to your present wife? A About two or three years.
Q Was that the first time you married? A Yes, sir, right in the neighborhood I was raised.
Q Was your wife living then? A Yes, sir.
Q Where she didn't live with you? A No, sir.
Q Where was she living with when you married her? A She was living around with her people, over by Chelsea, mostly at her father's house.
Q She had no permanent home? A No, sir.
Q Was she married to anybody else that you know of? A I don't know, I have afterwards got the idea, she was married to a national born.
Q You knew it before you married her? A No, sir.
Q You knew it after you married her? A I knew it afterwards.
Q Could you mention any other actions? A No, sir, she was living with me.
Q Did you ever live in a house? A Yes, sir.
Q Built for a home? A When we went to which we rented, I had a house.
Q Were you a citizen at the time? A No, sir.
Q How did you maintain a home when you were a citizen? A I had rented it.
Q Did you make her a home? A No, sir, she lived with me in the house, at the place I had rented.
Q And you lived in that rented house for three months? A Yes, sir.
Q You are certain you lived with this woman three months? A I don't

Shadrach C. Waller - .

re collect exactly, I think about the months.
Q Your memory isn't good on that? A No, sir, because I didn't put down the time.
Q She left you, did she? A Yes, sir, she left me.
Q Who were your neighbors over there at the time you lived with this woman? A My neighbors was Johnson Parks and Tom [illegible], and so on others.
Q Anybody name that you can prove this by? A I don't know that there is anybody might come, there is people here I know, I guess Mr. William Ballard.
Q [illegible] know her? A I know her.
Q What has been one of this woman? A She was living over there at Cow Skin Prairie the last I heard of her.
Q Did you ever - anyone - discuss her age? A Yes, sir.
Q [illegible] of her divorce? A Yes, sir, I believe I have got it with me.
Q [illegible] that you put in there that you received from Oscar [illegible] on the 1 7, is that true? A Yes, sir, I [illegible] it is.
Q [illegible] with a friend here? A Yes, sir.
Q [illegible] 1 [illegible]? A No, sir, [illegible].
Q [illegible] that way? A No, sir.
Q [illegible]? A Yes, sir.
Q [illegible] here was an question of this woman's age, is it?
A Yes, sir, [illegible] to me.
Q [illegible] lawyer to have [illegible]? A If [illegible] I never heard of it.
Q [illegible] at all? A No, sir, [illegible].
Q [illegible] sir, [illegible] with [illegible] about [illegible].
Q [illegible] again.
Q [illegible] living since [illegible]? A [illegible] when [illegible] I live [illegible] you [illegible] I [illegible] my [illegible].
Q [illegible] that [illegible] to [illegible]? A Yes, sir.
Q [illegible] there [illegible]? A Yes, [illegible], I [illegible] down on Saturday [illegible].
Q [illegible] question, sir, [illegible] I don't [illegible].
Q [illegible] sir; [illegible] I [illegible] to [illegible].
Q [illegible]? A [illegible] 0 [illegible].
Q [illegible], sir.
Q [illegible] :
Q. [illegible]: [illegible]?
Q [illegible] old [illegible]? A [illegible] 47.
Q [illegible] live? A I live [illegible], I [illegible] just [illegible].
Q [illegible] sir?
Q [illegible] this [illegible], Shadrach C. Waller? A I [illegible] no [illegible].
Q [illegible] Woodward? A I [illegible], I [illegible] told by [illegible] since that she was once his wife [illegible].
Q Do you know [illegible] the neighbors all [illegible] her crazy, don't you like [illegible] of sound mind.
Q Does she just like [illegible] or [illegible]? A Yes, sir, that is what they tell, and I see her knocking around; she stays at her sister's considerably.
Q You don't know anything about this marriage? A Nothing more

then mayor.
Q You know nothing of their separation or the cause of it? A No, sir.
Q Commissioner Fuller: Do you know how many times she was married?
A She married [illegible] afterwards by the name of Willis Collins, who lives at [illegible].
You don't know [illegible] any time she was married before that? A No, sir, [illegible] tell you more about that.

The name of Shadrach C. Fuller cannot be found upon the census roll [illegible]. [illegible] of his wife cannot be found upon the authentic [illegible]. [illegible] witness presents a marriage license and record [illegible] certificate filled in due form, certifying that he was married [illegible] of [illegible] to Miss Eliza Ann Woodward on the [illegible] September, 1865. He swears that the wife Eliza A. Woodward is [illegible] dead, and her maiden name is not the one mentioned [illegible], but could not be found there by the name of Woodward. [illegible] shows that he married from his wife and [illegible] from her. Final judgment as to the enrollment of [illegible] will be reserved until an intermediate citizen will be summoned [illegible] will be placed upon a doubtful card.

[illegible] report to [illegible] by dividing [illegible] other [illegible] omitted the [illegible] people notified.

Bruce L. Jones

Given [illegible] this [illegible] day of September, 1900.

C M Murphy

[illegible] in [illegible].

N. 368.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Shadrack C. Wallen for the enrollment of himself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 6th that his case would be taken up by the Commission for final consideration on the 25th day of February, 1902, and that on said date he could appear in person or by attorney before the Commission, when an opportunity would be given him to introduce any further testimony affecting his application. He was also requested to supply the Commission with a certified copy of the decree of divorce between himself and his wife, Eliza Ann Wallen. Receipt has been acknowledged of the Commission's letter. The applicant called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

D368

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 12 1902

Cher
Supp'l to D 368

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 13, 1902.

In the matter of the application of SHADRACH C. WALLEN, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

SHADRACH C. WALLEN, called as a witness, being duly sworn and examined by the Commission, testified as follows:

Q Your full name is Shadrach C. Wallen ? A Yes sir.
Q How old are you ? A Seventy three.
Q What is your post office address ?
A Afton, Indian Territory, Cherokee Nation.
Q Are you a white man ? A Yes sir.
Q Claiming as an intermarried citizen ? A Yes sir.
Q What is the name of your wife through whom you claim citizenship ? A Ann Eliza Woodard, when I married her.
Q Was she a Cherokee by blood ? A Yes sir.
Q Is she living ? A Yes sir, she was the last account I had of her, she lives not far from where I do.
Q When were you married to her ?
A About the 15 of September, 1885.
Q Was she your first wife ? A No sir, I had had two women before that.
Q You were married to two others ? A Yes sir.
Q Twice married before that ? A Yes sir.
Q Were they both white women ? A Yes sir.
Q Were they both ~~ik~~ dead before you married your third wife ?
A Yes sir, both dead and buried; I buried them both.
Q Were you married under a Cherokee marriage license ?
A Yes sir, in Delaware district.
Q How long did you live with her ?
A She stayed with me about a month and a half, and she was good and kind, and said she had rather gow back and stay with her people; I had some children by my first wife. She was a good woman and I was kind to her. She said she had no objection to me, and wanted me to get a divorce; said she would not object or appear against me. She went to her people; and after that I got a buggy and sent over and asked her to come back, and she said she would rather stay with her people.
Q Did she give any reason why she left you ?
A No sir, she said we were good to her as we could be.
Q In what court was that you got your divorce ?
A In the Delaware District Court.
Q You get the divorce ? A Yes sir, there's a copy of it filed here with the Commission at Tahlequah. I wrote to Alberty and he sent me a copy of it.
Q Did you ever try to get your wife to come back and live with you before you sued for divorce ? A Yes sir, I sent for her. She was kind; she never give me a cross word nor me her.
Q When was that ? A I got the divorce from her in 1887.
Q Have you married since your divorce ? A No sir.
Q How long have you been living in the Cherokee Nation ?
A I came to the Cherokee Nation in 1882. I married her in 1885.
Q Have you been living in the Cherokee Nation ever since ?
A Yes sir, right in Delaware District. I live there now and have ever since.
Q You never had a residence anywhere else ? A No never.

Q You have never lived anywhere else ? A No sir; I live now in Afton, in Delaware District, and have ever since I come here. I have served about twenty two years in Delaware District.
Q How long had your second wife been dead when you married your third wife ? A My second wife died in 1880. She died in Arkansas, then I come to the Nation in 1882. In 1882 I come to the Cow Skin prairie, and then in 1885 I married her.

By J. C. Starr:

Q What was the name of your first wife ? A Her name was Stapleton. I married her in Tennessee; she died in Arkansas.
Q Your last wife before the present one; your second wife, did she die in Arkansas ? A Yes sir.
Q Where were you living when the first wife died ?
A In Arkansas.
Q What town ? A Huntsville, in Madison County.
Q Where were you living ? A About five miles from there.
Q What was your post office ? A Hindsville.
Q Did you live with your first wife until she died ?
A Yes sir.
Q What was the second wife's name ? A Jennie Hayden. She was of a consumptive family, and she died within two years.
Q Where were you married to her ? A In Hindsville, in Madison county.
Q Where were you living when she died ? A Right there.
Q What was her maiden name ? A Jennie Hayden, or Virginia Hayden, was her correct name.
Q When did she die ? A In 1880.
Q Where ? A At home in Hindsville; close to there, in Arkansas where I lived.
Q How many times has Eliza Woodard been married before you married her ? A I can't tell you; she said she had been married once. She give her name as Ann Eliza Woodard.
Q Where were you and she married ? A In Jeff McGhee's office; at the Clerk's office.
Q Were you married byhim ? A No sir. I think the deputy clerk was named Winningham, or something like that.
Q Did you get a regular Cherokee marriage license ?
A Yes sir, they are filed here before this Commission.
Q Was Cunningham the deputy clerk at that time ?
A I suppose so, he was there, and Jeff McGhee recognized me, I have had business in their courts.
Q What Cunningham was that ? A I couldn't tell you, he was doing deputy work there in Jeff's office.
Q Where did you and Eliza Woodard live after you were married ?
A When I married her I bought a farm close to the State line in the corner of the Cherokee Nation, and we lived there. I had it rented when I married her, and after that I went and bought it.
Q How long had you known her before you married her ?
A For a year or so; she lived at Split Log below me. I had got acquainted with her, but I don't know just how long I had known her. I hadn't known her over two years. Not over two, and maybe not over one.
Q You don't know anything about how many times she had been married before she married you ? A No sir, she told me she was married once, and he was dead.
Q Who did she tell you he was ?
A She said his name was Woodard. She gave me her name as Woodard.
Q Where were you living when the separation took place ?
A Living at home sir, right at home with her, and as happy as I thought two people ever was in the world, and ate dinner, and I was

going out, and made pile of lumber, and I wrote a letter or two, and she followed me out, and she come out and said she wanted to go to Split Log, and I said "I will get a horse and saddle for you to go". "No, she says, "I had rather walk"; "No", says I, "you must ride". I set down on the lumber pile, and I called my son out--he was here two or three days ago--and I asked him if he knew what was the matter. She said she believed she would go and stay and not come back. I told her that that hurt me very much to hear her talk that way; and I asked her if any one insulted her, and she give me a good recommendation, and said I was good to her. She said I was too good to her.
Q Didn't you give her about twenty five dollars for her to marry you ? A No sir.
Q Didn't you enter into any kind of a conspiracy to get her to marry you ? A No sir, she wen't say it, and nobody else don't know anything about it.
Q Didn't you know at the time you married her that she was a woman of unsound mind ? A No sir.
Q At the time you married her didn't you know that she had been married to about a dozen other men ?
A No sir, she said she was married to Woodard, and that's all I supposed she was married to.
Q You didn't make any inquiry ? A No sir, I didn't suppose it was necessary. She seemed to be very nice and all.
Q Didn't you make an agreement with her that you were to bring suit for divorce, and she wasn't to appear ? A No sir. She told me the day she went off, she said "I will never appear agin you, you are a good man". I feed old Sam Martin to get me a divorce. She wanted me to have a divorce, and she said I needed a woman that was a better woman than she was. She says "I will never go and appear agin you unless they tie me and take me, and then I won't say anything".

By the Commission:

Q Was your wife of sound mind ? A So far as I know she was. She appeared that way to me.
Q How old was she when she married you ?
A I don't know; I don't know as I ever asked her her age.
Q What is your judgment ? A Forty or forty five. When we married she was probably forty or forty five.
Q How old are you ? A Seventy three now.

E. C. Bagwell, on oath states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this October 29, 1902.

B O Jones
Notary Public.

motor car, and said nothing about it. I wrote a letter or two, and she followed me out, and she came out and said she wanted to go to Spitz Bay, and I said, "I will get a horse and buggy for you to go". "No", she says, "I had rather walk". "No", says I, "you must ride". I set down on the lumber pile, and I pacified my son-in-law was here two or three days--and I asked him if he knew what was the matter. She only believed she would go and see some people. I said I was afraid that I'd be responsible for such that way. And I accompanied her to the Spitz Bay, and she gave me a good recommendation, and said I was good to her. The most I was too good to her.

Q. Didn't you give her about twenty-five dollars for her to marry you? A. No sir.

Q. Didn't you enter into any kind of a conspiracy to get her to marry you? A. No sir; she won't say it, and nobody else don't know anything about it.

Q. Didn't you know at the time you married her that she was a woman of unsound mind? A. No sir.

Q. At the time you married her didn't you know that she had been married to about a dozen other men?

A. No sir; she said she was married to Woodard, and that's all I supposed she was married to.

Q. You didn't make any inquiry? A. No sir, I didn't think it was necessary. She seemed to be very nice and all.

Q. Didn't you make an agreement with her that you were to bring suit for divorce, and she would to appear? A. No sir. She said the day she went off, she said "I will never appear against you, you are a good man". I took old Sam Martin to get me a divorce. She wanted me to have a divorce, and she said I needed a woman that was a better woman than she was. She says "I will never go and appear agin you whether they kill me and hang me, and then I won't care anything".

By the Commissioner:

Q. Was your wife of young mind? A. So far as I know she was. She appeared that way to me.

Q. How old was she when you married you?

A. I don't know. I don't know as I ever asked her her age.

Q. What is your business? A. Farmer or farming. When we married she was pretty near on forty years.

Q. How old are you? A. Seventy-seven.

Generally, on such states, such as stated earlier to the Commissioner in the Five Million Fifteen, he correctly recorded the testimony and proceedings had in the above entitled cause, and that was transcribed in an accurate transcript of his stenographic notes thereof.

Subscribed and sworn to before me this October 24, 1952.

Notary Public.

0368

Cherokee D-566.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., September 11, 1902.

In the matter of the application of Shadrack C. Wallen for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

Cherokee Nation makes proof of service upon the applicant, Shadrack C. Wallen, that it would offer testimony on the 10th of November, 1902, tending to disprove the applicant's right to enrollment as an intermarried citizen of the Cherokee Nation. The same was not reached on said day and was continued over until this day.

Randolph Ballard, being sworn and examined, testified as follows:

By W. W. Hastings: What is your name? A Randolph Ballard.
Q What is your age? A Forty-eight.
Q Postoffice? A Keedmore.
Q Are you a citizen of the Cherokee Nation by blood? A Yes sir.
Q Do you know Shadrack C. Wallen? A Yes sir, I know about him.
Q You know him don't you? A Yes sir, I know him personally.
Q How long have you known him? A Ever since about '86 or '7 is the first time I knowed him.
Q Has he been married to a Cherokee citizen? A He claimed to be, yes sir.
Q Who did he claim to marry? A They called her Ann Eliza Woodward.
Q Did you know her before they married? A Yes sir.
Q Have you known her since? A Yes sir, I have known her since.
Q About how far did she live from you at the time of this marriage?
A About twelve ~~maximax~~ miles.
Q Did she afterwards come nearer? A Yes sir, she then come over. She had no place at all; in fact she stayed here and there wherever she could stop in.
Q She roamed around over the country? A Yes sir.
Q What was her mental condition? A Not very good.
Q Wasn't she a person of unsound mind? A Yes sir, she was bad too.
Q Did they afterwards confine her in the asylum? A Yes sir, she is now in the asylum.
Q About how long has she been in the asylum? A About three or four months I reckon. She just got so bad they had to take her there.
Q Has she been considered a person of unsound mind for years? A Yes sir, for about twenty years.
Q I will ask you if she ever made any statement to you with reference to her marriage to Shadrack C. Wallen? A Yes sir, she had a good deal to talk about it. Almost all the time whenever you would meet her she had something to say about it.
Q She was talking about it all the time? A Yes sir.
Q Did she say what inducement was made if any to marry the applicant, Shadrack C. Wallen? A She told me he gave her fifty dollars; that he didn't care if she lived with him or not if she would just marry him and she married him she said. She said I guess we would marry.
Q Tell allabout it? A She said they married and after a while he offered her One hundred dollars if she would leave and she left in the morning before breakfast. She then went off and afterwards he told her he was going to sue and he would give her fifty dollars if she would consent, and she said he gave her two hundred dollars all toll; she said some one told her that she didn't know money when she would see it; she said other folks told her she didn't know money herself. She said he didn't care anything for her and when they went to get married she told me that they went to Cunningham at Vinita and they stopped at the gate; they were in a buggy; they stopped at the yard gate and Mr. Wallen went into Cunningham's house and talked to him a good while; she said she didn't know how long, and he come out and said they were married and they would go home and that is about all I know of it.

Q She said that was all the marriage that took place? A That is all she knows anything about.
Q About how long did they live together? A About a month, right at a month she said, and she said he was always out with the hogs; that he didn't care anything for her, he thought more of them than he did of her.
Q Did you know this woman after this marriage and after this separation? A Yes sir.
Q She talked to you about it frequently? A Yes sir, that was when the subject come up and then she would fly at something else.
Q I will ask you if that isn't the general report and belief of that entire community? A Yes sir, that is the whole talk of everybody.
Q Wasn't it at that time? A Yes sir.
Q And has been ever since? A Yes sir, ever since, and it aint only me she told about that amount of money; she told lot more and you can find many that would be justified in saying this. She told one or two and they told me the same.
Q Who? A Edmond's wife.
Q She was an England? A Yes sir, only she had told it a shorter way than I have told it; she said he had given her two hundred dollars to get rid of her.
Q He afterwards sued her for divorce? A Yes sir, he told me.
Commission: Who is this man Cunningham that claimed to have married her? A He was Mayor .
Q Mayor of what town? A Of Vinita.
Q Where is he now? A He is now at Tahlequah.
Q What is his given name do you know? A No sir, I don't. Doc. Cunningham is all I know.
Q He is now at Tahlequah is he? A Yes sir, and I knowed him all my life.
Q Now this woman, the wife of Shadrack C. Wallen, is she a Cherokee citizen? A Yes sir, she is a Cherokee; she was a Wear.
Q Did you know her before she married Wallen? A Yes sir.
Q How long had you known her before she married Wallen? A Well, I am forty-eight years old and I guess I knowed her all my life; ever since I can remember anything.
Q You have known her pretty well and you know what the neighbors said about her all this time? A Yes sir.
Q What was her mental condition at the time of her marriage to this man Wallen? A It wasn't quite as bad as it is now, but it wasn't good.
Q She was regarded as at that time as crazy? A Yes sir.
Q Did the people regard her as being able to do business for herself or making contracts at that time? A I don't think they did.
Q What is your best judgment as regards to her contracting business or entering into contract with Wallen? A I don't think she was responsible. have
Q Would you thought anything more of making a trade with her as you would a child seven yearsold? A There wouldn't be any difference.
Q That was her condition at the time she married Wallen? A Yes sir, very shortly after that her brother told me this too, that they tried to keep her from marrying.
W.W.Hastings: Is this the same woman that used to go around through the country with feathers around through her hair, different colored feathers? A Yes sir, chicken feathers, goose feathers, anything she could get a hold of. When she was talking about this she would come to my mother and talk both languages of the Cherokee.
Q Your mother talked both languages? A Yes sir; she would come there when she lived on the west side of the river. She went crazy over her first man named Woodward; he died one night and the next night the child died and the third night her next one died and she has been crazy ever since. She run off from there; she was wild and she got up on Honey Creek and Cowskin Prairie.

Commission: That was her first husband before she married Wallen? A Yes sir, before she married this other man Nellis.
W.W.Hastings: She married Bill Nellis? A Yes sir.
Q And they had a separation? A Yes sir, she left the same way.
Q Do you know how many times she has been married that way? A No sir, I don't know anything about Nellis and her married at all; she left him the same way I heard. I know Woodward of course.
Q About how long ago was it when this first husband died that you speak of here? A I reckon it must have been in '70 or '71.
Q That was some fifteen years or more before she married Wallen? A Yes sir.
Q You say her mind became unbalanced at that time? A Yes sir.
Q She lost two or three members of her family right together? A Yes sir, before they took her from my house where I live. I have a boy named Jim, and she had — Jim, he was a great favorite with her, and my boys are grown, and she runs after him. Her niece and all of them just naturally took hold of her to get her away from my boy; they have to take her away from home every time she comes on a visit to our house. We had to take the young one away from her; she would love it to death.
W.W.Hastings: He was the only member of the family she cared for? A Yes sir, it seemed that way.

J.C.Starr, being sworn and examined, testified as follows:
By W.W.Hastings: What is your name,-J. C. Starr? A Yes sir.
Q How old are you? A Thirty-two.
Q What is your postoffice? Vinita? A Yes sir.
Q Where did you live prior to moving to Vinita? A Lived at Grove, Indian Territory, near Grove.
Q Over near the center of Delaware District? A Yes sir.
Q Did you know Shadrack C. Wallen, the applicant? A Yes sir.
Q Did you know his wife, Ann Eliza Woodward before and after he married her? A Yes sir.
Q Did you know her mental condition prior to her marriage and subsequent to Wallen? A Yes sir.
Q What was her mental condition with reference to — was she regarded sane or what? A She was regarded by the community generally as a woman of unsound mind.
Q Do you know where she made her home? A She made her home a great deal of the time when I knew her up on Cowskin Prairie; she was working for Splitlog in the Seneca Nation.
Q Did she go from place to place? A Yes sir, wandered around.
Q You understood later she was confined in the asylum? A Yes sir, at Tahlequah. She always has feathers in her head.
Q Do you know anything about her going around with feathers stuck up in her hair? A Yes sir, I have seen her around in the country with feathers in her hair.
Q With Chicken, goose and different kinds of feathers? A Yes sir.
Q Do you know anything about her marriage to him? A No sir.
Q Have you heard these reports which the other witness has detailed on the stand? A Yes sir, it has been generally reported throughout the country it was for a money consideration to give this man a right in the country.
Q They separated? A Yes sir.
Q He sued her for a divorce and she never appeared? A Yes sir, and I was at the Court:House when this divorce suit was pending, assisting the Clerk in keeping the records and I know she never appeared there.
Commission: What was her mental condition at the time of her marriage to this man, Wallen? A It was about the same as it had been about as long as I had known; it might have been better; she seems to get better at times and then worse.

Q How is she regarded by the people generally as to responsibility for what she does? A She is not regarded as being responsible for what she does; she is regarded as an insane person.
W.W.Hastings: And has been ever since you have known her? A Yes sir.

J. V. Smith, being sworn and examined, testified as follows:
W.W.Hastings: What is your name? A J. V. Smith.
Q What is your age? A Forty-five.
Q Did you know Shadrack G. Wallen? A Yes sir.
Q Did you know his wife, Ann Eliza Woodward? A Yes sir.
Q Did you know her before she married this man? A Yes sir.
Q Did you know when she married him? A Yes sir, I know when she married him.
Q Did you know them after they were married? A Yes sir.
Q Do you know about how long they lived together? A Something like a year I believe, I wouldn't be positive just at the time. It wasn't but a very short time.
Q You are not positive about that? A No sir, I am not positive; it was just a very short time.
Q Well, did you see her about the time of the separation? A Yes sir.
Q When did you see her? A She was at my house.
Q Who brought her there? A She come there herself.
Q Did she come there at the time of the separation? A No sir, she was there afterwards.
Q Well, about how long after the separation do you know, a short time?
A A Short time; she visited us very frequently.
Q What was her mental condition? A It was very poor.
Q Would you regard her as responsible, sufficient to get out and make trade and contracts? A No sir, not at that time.
Q Would you regard her as responsible when she married this man?
A No sir, I wouldn't; in fact she didn't go to prove such to me.
Q How was she regarded by the community up there, as a person of sound or unsound mind? A Unsound.
Q Was she so regarded atthe time she married Wallen? A Yes sir.
Q And has she ever since? A Yes sir.
Q And before that time? A Yes sir.
Q How long before? A Quite a while; from the time she married Wellis, after they separated, from that time she has been considered unsound.
Q That was about how many years before she and Wallen married? A Something like a year or two; a very short time, I don't remember just how long.
Q You are not positively about thesedates? A No sir, I aint positive about the dates.
Q You knew her at the time and before Wallen married her, and you know of your own knowledge that she wasn't regarded as a person of sound mind at that time? A No sir; she come to our house frequently and would get up before daylight and sit around and undertake to cook and so on.
Q Before day? A Yes sir, way before day, all the way from two o'clock until daylight.
Q You didn't regard her as responsible? A No sir, not at that time I didn't.

Shadrack G. Vallen-

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. G. Rothenberger

Subscribed and sworn to before me this 8th day of December, 1903.

B. A. Jones
Notary Public.

Cher
Supp'l to D 368

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., March 7, 1903.

In the matter of the application of SHADRACK C. WALLEN, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

The Commission: It appears that the applicant was notified by the Commission, on February 16, 1903, that additional testimony would be taken in the matter of his application, at Vinita, Indian Territory, on February 25, 1903. No person appeared for the applicant on that day, and, owing to the inclemency of the weather, the case was re-set for March 7, 1903, on request of the Cherokee Nation, the latter agreeing to notify the applicant.

Now, on this day comes the Cherokee Nation, by its representative J. C. Starr, and makes satisfactory proof that the applicant was notified by registered letter, received by him at his post office at Afton, Indian Territory, on March 5, 1903, as shown by the return registry receipt, that testimony would be taken in the matter of his application, before the Commission, at Vinita, Indian Territory, on March 7, 1903, at eight o'clock a m.

On the calling of the case applicant fails to appear either in person or by attorney, and the following testimony was introduced:

WILLIAM N. STEWART, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A William N. Stewart.
Q How old are you ? A Fifty eight.
Q What is your post office address ? A Grove.
Q Are you a citizen of the Cherokee Nation ? A Yes sir.
Q Do you know a white man by the name of Shadrack C. Wallen ?
A Yes sir.
Q How long have you known him ? A I have known him, I think, about eighteen or nineteen years.
Q Have you known him pretty intimately ?
A No sir, I have never been intimately acquainted with him; he has never lived close around me.
Q He is an applicant to be enrolled as a citizen by intermarriage ?
A Yes sir.
Q Do you know the wife through whom he claims his citizenship ?
A Yes sir.
Q What is her name ? A Ann Eliza Weit.
Q That was her maiden name ? A Yes sir.
Q How long have you known her ? A Ever since the spring of 1881.
Q Was she a single woman then ? A Yes sir.
Q She had never been married ? A She had been married before that.
Q You didn't know her before 1881 ? A No sir.
Q When was Wallen married to her ? A I disremember the year; it seems to me it was somewhere about 1884.
Q A few years after you got acquainted with her ? A Yes sir.
Q Where was she living when you first met her ?
A She didn't have no place to live, she just stayed around in the neighborhood.
Q How much Cherokee blood did she have ?
A Why she must have been a quarter, possibly a half.
Q You were living at Grove then ? A It was my post office, I didn't live there; I don't live at Grove now, that's my post office. I was living then where I am now.

Q What were the circumstances under which you first met this woman ? A The first I ever knew of her was, I had went off down south early in the spring of 1881 after cattle, and when I came back my wife had got acquainted with her at a neighbors house, and got her to stay with her, and she made her home, after that, off and on, at our place.
Q How long would she be at your place ?
A About a fourth of her time.
Q She was a widow then, was she ? A Yes sir. She usually called that her home.
Q You have conversed with her ? A Oh yes sir, she was like one of our family.
Q Did she have any children then ? A No sir, her children were all dead.
Q How old was she when she was staying there ?
A I think she is just about my age, maybe a little older than I am; just about my age.
Q How what was her mental condition ?
A Well, we never regarded it as good.
Q Well, what do you mean by that Mr. Stewart ?
A We kept a watch over her all the time.
Q State how she acted ? A She would get up most any time in the night and build a fire in the stove and set up.
Q Was that in the summer or winter ? A Summer and winter both, it didn't matter.
Q Would she start to cook ? A Yes sir, sometimes, and my wife would get up and talk with her, and tell her it wasn't time.
Q Would she go back to bed again ? A Sometimes she would, and sometimes she would just set up; said she couldn't sleep.
Q Was there anything else ? A Why she would take a notion to make her clothes ridiculous and out of fashion every way, and my wife would pursuade her out of it. At one time she started to make a dress so narrow she couldn't walk in it. My wife said she couldn't have walked in it.
Q Did she give any reason as to why she was making that kind of a dress ? A She said she didn't want so much cloth sweeping around.
Q Did she wear that dress ? A No sir, my wife wouldn't let her make it. She could talk her out of anything.
Q She reasoned with her ? A Yes sir.
Q What else was there peculiar in her ways ?
A Well, at one time she wanted me to buy her a pair of shoes, and told me she wanted me to get her threes, and I told her she couldn't wear them; oh yes she could, she said; and I got her 4-1/2 and she wouldn't wear them because I wouldn't get threes, and she couldn't have got her foot in threes.
Q You pursuaded her not to get threes ? A Oh yes, and I got 4-1/2 and she wouldn't wear them, she would look at them and she thought they were not threes, and she wouldn't have them.
Q Did she have any property ? A No sir.
Q Well, in talking with her generally, on general subjects, would she talk reasonably ? A For a while she would, and sometimes she would be talking and quit all of a sudden and commence talking about something else.
Q Did she have any delusions of any kind ?
A Not that I know of.
Q So that it was these peculiar acts of hers that made you think she was wrong mentally ? A Yes sir.
Q She knew what she was doing all the time didn't she ?
A Part of the time she did, and part of the time she didn't.
Q What makes you think she didn't know sometimes ?
A Sometimes she would go and stack the dishes up in a corner of the house on the floor.

Q Did she say why she was doing that ? A She just said they looked better there, and easier for her to get holdmof; she said the cupboard was too high.
Q Was she rational in her conversation ?
A She would be at times for a little while.
Q She didn't have any delusions or hallucinations of any kind did she ? A No sir.
Q She stayed at your house three or four years ?
A Off and on; she never did stay with us longer than six months at a time, she would go off and stay two or three weeks, and then come back.
Q Do you remember when she married Wallen ? A Yes sir.
Q Did Wallen ever come to see her while she was at your house ?
A No sir.
Q Did you know him at that time ? A Yes sir. She was staying over there at Splitleg at that time. She came from Wallen, when she quit him, to our house.
Q How long did she live with Wallen ?
A I don't remember, I don't think it was more than a month or six weeks; I know it was a short time from the time I heard she was married until she came to our house.
Q I don't want to ask you anything that would call forth the answer of an expert, but I want to ask your judgment as to whether you think that woman knew what she was doing when she married Wallen ? A I don't think she did.
Q Don't you think she knew she was marrying ?
A I guess she did then at that time.
Q Did she ever talk about her marriage, to you ?
A I asked her, when she came back, what she quit Wallen for; well, she says, "he told me when he married me that there would be many a sad heart over his marrying me". Well, said I, that wasn't nothing to quit him for. Well, she says, he just set on the hog pen all the time, and I just seen I wasn't wanted there and she pulled up and left, and came there with a little bundle of clothes.
Q In other words, she thought he didn't care for her ?
A Didn't want her there is what she said.
Q Is that the only time she ever spoke of her marriage ?
A All the time I remember.
Q Could she cook and do house work ? A She could at times, and at times she couldn't; sometimes she could get up and cook a meals victuals, such as she could, and sometimes she couldn't cook at all.
Q Did you know any members of her family ? A No sir.
Q Didn't know her first husband ? A No sir.
Q Don't know how long they lived together ?
A Seven or eight years.
Q Was he dead when she married again ? A Yes sir.
Q Was that the only time she had been married ?
A No sir, she married Bill Nellis, before she married Wallen.
Q How long did they live together ? A Five or six months.
Q Did he die ? A No sir, she quit him.
Q Is he living ? A Yes sir, he's living yet.
Q Were they divorced ? A I can't tell you whether they were or not.
Q You didn't know her father ? A No sir.
Q Don't know whether she had any sisters or brothers ?
A Oh yes, she had sisters and brothers, she has a brother living here in town.
Q Do you know if there is an insanity in that family ?
A I don't know of any besides her. I knew one of her sisters and know two brothers.
Q What do her brothers do ? A This brother living here in town I don't know what he does do; there is one is a farmer lives mx out not far from Fairland

Q Have you known that woman pretty intimately from that time on up till now ? A Yes sir.
Q What is her condition now ? A She is in the Insane Asylum.
Q When did she go there ? A Early last year I think.
Q Who made application for her admission in there ?
A Her brother.
Q What was her condition just prior to going in there, was she violent ? A Yes sir, that's what they told me.
Q Had she been getting worse all the time ?
A Yes sir, all the time she gradually got worse. I could see it every time I would meet her, I could see she was getting worse.
Q She didn't marry anybody after she quit Wallen ? A No sir.
Q She come back to your house after quitting Wallen ?
A Yes sir.
Q Did Wallen ever come over to see her ? A No sir.
Q Did she talk to you about him ? A Not often, except when I would question her sometimes, when I could see her mind clearing up I talked with her.
Q Did she talk reasonably about it ? A Yes sir, but she wouldn't talk about it much; she would dodge me by saying "I would rather not talk about that".
Q She never made any comments nor said why she married him ?
A No sir.
Q Did you ever talk with Wallen about it ? A No sir, I never did. Bill Nellis came there and tried his best to get her to go back, and tried to get me to talk to her, and tried my wife.
Q Did Nellis regard her as being mentally unsound ?
A Yes sir. He said he didn't know it at the time. He said she acted curious to him.
Q Who performed the ceremony between this woman and Wallen ?
A I don't know.
Q Did they have a regular marriage ceremony ?
A That's the way I understand it.
Q Had a preacher ? A That's the way I understood it.
Q Was this woman generally understood, in the neighborhood, to be a woman of unsound mind ? A Yes sir. She is regarded that way by all the neighbors.
Q Was she called insane ? A To a certain extent some of them would say she was, and some of them would say she was peculiar.
Q Called her crazy ? A Yes sir some of them just come right out and said she was crazy.
Q What asylum is she in now ? A The Cherokee.
Q At Tahlequah ? A Yes sir.
Q She went there last fall ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell

Subscribed and sworn to before me this April 9, 1903.

Samuel Foreman

Notary Public.

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

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Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., March 7, 1903.

In the matter of the application of SHADRACK C. WALLEN, for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation:

W. W. WEIR, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A W. W. Weir.
Q How old are you ? A I am fifty seven.
Q What is your post office ? A Vinita.
Q Are you a citizen of the Cherokee Nation ? A Yes sir.
Q Do you know Shadrack C. Wallen ? A Yes sir.
Q How long have you known him ? A Why I have known him, I don't know how long, I expect I have known him fifteen or twenty years, in the neighborhood of that.
Q Have you known him intimately ? A Why no, I have just known him as I would see him, that's about all.
Q He is an applicant for enrollment as a citizen by intermarriage ?
A I suppose he is, yes sir.
Q What is the name of the wife through whom he claims citizenship ?
A I guess she went by the name of Nellis when he married her.
Q What was her given name ? A Ann Eliza, she was a sister of mine.
Q How long have you known her ? A I have known her all my life.
Q Is she related to you ? A She's a sister of mine.
Q Your sister ? A Yes sir.
Q When was she married to Shadrack C. Wallen ?
A I can't say positively, but about 1885 or 1886; somewheres right along there, I didn't keep no record of it, but somewheres in that neighborhood.
Q Had she been married prior to that time ? A Yes sir, twice before.
Q What was the name of her first husband ? A Woodard.
Q Was he a Cherokee or a white man ? A He was a Cherokee.
Q How old was she then ? A I guess she was about eighteen.
Q How long did they live together ? A They lived together, oh until he died; I can't say.
Q Several years ? A Oh yes sir, a good many years.
Q Then after his death she married again ? A Yes sir.
Q What was her second husband's name ? A Nellis.
Q Is he dead ? A No sir, he's living.
Q They separated ? A Yes sir.
Q What was your sister's mental condition when she married her first husband Woodard ? A She was in her right mind; she had just got back from the Seminary; she graduated from the Seminary at Tahlequah.
Q Is there any insanity in your family ? A No sir.
Q What was her mental condition at the time she married Wallen ?
A Why it was mighty poorly and bad.
Q Do you know what caused this trouble ? A Yes sir I have got an idea what it was, you see they lived in Canadian District, Woodard and her, and Woodard died, and she wrote to me to come for her, and I went after her, and she had two little children, and when she come up here she lost thos two children.
Q They died ? A Yes sir.
Q Shortly after her husband's death ? A Two or three years; and she lost those two children, and when they died, why it just looked

like her mind just wandered away from her gradually, it got worse all the time, you know, and it never got better, until we had to take her to the insane asylum.
Q How long did these things occur before her marriage to Wallen ? The deaths of these children ? A Oh it must have been five or six and maybe ten years.
Q That was before she married Wellis too ?
A Yes sir, she wasn't in her right mind when she married Wellis.
Q How long did she stay with Wellis ? A I can't say.
Q A year ? A No sir, I don't think so.
Q Was he a white man ? A Yes sir.
Q Do you know anything about that marriage, when it occurred ?
A No sir, I just heard of it, I never saw it.
Q Now you say her mental condition was bad, what do you mean by that ? A I mean she wasn't capable of transacting any kind of of business.
Q That's your judgment about it, what do you base that opinion on ?
A Her actions.
Q Describe her actions ? A Well, she would just go first from one place to another and stay a little while, and pull up and go again; and wherever she stayed all night, she would get up in the midnight and make up a big hot fire, didn't matter whether it was warm weather or not, and go to work and cook after midnight. It wasn't one night, but it was every night, wherever she stayed.
Q Well, did she ever attempt to give any reason, or say why she did those things ? A No sir, couldn't get anything out of her, she was an early riser, and the like of that, that's the way she explained it.
Q What else was there that made you think she was insane ?
A Well, that's about all that I--and she just come to the creek or the river, and she would just go right through and never stop, no matter how deep it was.Mud holes I mean or little streams. I guess she would, I wouldn't be with her, but when she would come she would be as muddy as she could be; her clothing would be all muddy.
Q Well, you conversed with her, of course, a great deal since the death of her first husband and the deaths of her children ?
A Yes sir, considerable.
Q Would she talk rationally on any subject at all ?
A No sir, she wouldn't talk rational.
Q What would she talk about ? A Nothing at all much.
Q Would she give you a rational answer ? A No sir.
Q Wouldn't she answer questions ? Wouldn't she give a rational answer ?
A If you would ask her a question maybe she would answer, and maybe she would get up and pull out to some other place.
Q She would understand what you said to her ? A Oh yes sir.
Q And answer your question ? A She will today; if you ask a question, why she will answer.
Q Is it your opinion, Mr. Weir, that she didn't know what she was doing ? A Why I don't know, I don't believe, I guess she may have knew what she was doing, I don't think she was very capable of making a contract of marriage when she married or she wouldn't have did it.
Q Why do you say she wouldn't have done it ?
A In the condition she was, you know.
Q Don't you think she knew she was marrying Wallen ?
A I don't know, I expect she knew she was marrying him, maybe.
Q Well why do you say then that she wasn't capable of entering into a contract of marriage ? A Why because of the way she was acting you know, and the way she would act when she would be around the neighbors. It would make no difference where she was nor how good they treated her, she would think you was mistreating her, and pull right out.

Q You think then Mr. Weit, that she ought not to have married Wallen, and because she did, your conclusion is she was not in her right mind; is that it ? A I don't know what about that.
Q Well, did your sister have delusions of any kind ?
A No sir; what do you mean by delusions ?
Q Whether she had strange conceptions of things.
A No, not that I know of.
Q Wouldn't there be times when she would be the same as other people ? A No sir, she was just naturally--her mind after it begun to leave her just gradually left her, and she never did get any better.
Q What was her appearance, did she look like an insane person ?
A Of course you could see that she was silly to look at her.
Q How long had she known Wallen before she married him ?
A I don't expect she knew him at all hardly.
Q You don't know it ? A No sir; I think she was persuaded by the neighbors up there, because they wanted to get rid of her.
Q How long did she live with Wallen ? A I can't tell you that, not very long though, but not more than a month or two.
Q Have ever you spoken to Mr. Wallen about this matter ?
A No sir, because I didn't think a man would marry a woman of that kind knowing it.
Q In your judgment, would a man or would any person, just in a casual conversation with your sister, find out she was insane ?
A Why of course, yes sir.
Q Couldn't talk with her a few minutes without finding it out ?
A No sir.
Q After she left Wallen and up to the time she went to the asylum what became of her ? A She done as she did before, stayed first one place and then another, you couldn't get her to stay where people would take care of her; she thought that was too humbling I reckon.
Q When was she taken to the asylum ? A I think it was last August, or last July, I taken her down there.
Q Well, had she become so she couldn't care for herself ?
A Oh yes sir.
Q Had she become violent ? A No sir. She never did get violent.
Q Did she get so she couldn't attend to herself at all ?
A No sir, she would tear her clothes off of her and the like of that. You could take a baby then and put with her, and she would care for that baby all day long, and you needn't be a bit alarmed about her hurting it, but she couldn't take care of herself.

Examined by J. C. Starr:

Q Did I understand you, Mr. Weir, to say that Ann Eliza lost her mind right after the deaths of her two children ?
A Yes sir.
Q And that she was regarded by the community as a crazy woman from that on ? A That's what she was yes sir; and it wasn't just a spell, it was all the time, just the samething, only growing worse. We lived with her six weeks down there on the river and thought maybe she might become alright, and finally had to take her off; just couldn't do a thing with her. Would have to lock her up at night in a little house by herself, and of course it hurt all of us to do it, and it just wore us out, and we had to take her.

ELIZA DODSON, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A Eliza Dodson.
Q How old are you ? A Twenty eight.
Q What is your post office address ? A Vinita.
Q Are you a citizen of the Cherokee Nation ? A Yes sir.
Q Do you know Ann Eliza Wallen, formerly the wife of Shadrack C. Wallen ? A Yes sir.
Q How long have you known her ? A Well, I have known her ever since she come back, ever since they brought her back.
Q Back from where ? A Wherever she lived below here, in Canadian District I believe. I have known her ever since then, I was a small girl, and I can remember just when she come back.
Q That was after her husband Woodard died ? A Yes sir.
Q And before her marriage to Wallen ? A Yes sir.
Q That was your first acquaintance with her ? A Yes sir.
Q How old were you then ? A Well, I was quite small, I wasn't more than five or six years old I expect. I just remember her, and that's all, when she first came back.
Q Did you see her very often ? A Well for a while she stayed with us; I don't remember how long.
Q How did she act when she was at your house ?
A I can't remember, I just remember of her being there with two little children, and that's about all; I can't tell anything about her actions then.
Q Do you remember when her children died ?
A She wasn't with us then; I didn't know anything about her until after she left Wallen.
Q After she left Wallen did you get acquainted with her ?
A Yes sir she come back to our house then.
Q How long did she stay ? A Not very long at a time, but she was there every once in a while.
Q That was how long ago ? A Its been about twelve years I think since she came back there.
Q You remember that distinctly ? A Well I wouldn't say just how many years its been.
Q But you remember the occasion of her coming back ?
A Yes sir.
Q Well, was there anything peculiar in her actions at that time ?
A Yes sir.
Q State what it was ? A Well she only stayed one night the first time she come back, and she acted just like she always has since, like a person that didn't have a good mind.
Q What did she do ? A Well, the first I noticed of her, when they drove up to the fence, she hid her face and laughed like a little child, and was silly, and she come in and stayed all night.
Q You talked with her, did you ? A Yes sir.
Q What did you talk about ? A I can't remember now, its been so long.
Q Did she talk rationally ? A Yes sir; mother asked her something about Wallen after she had been there a little while and she just got mad.
Q What did she say ? A I don't remember hardly, but she called him names, but she talked just like anyone would.
Q Did she ever speak of her marriage to Wallen ?
A I never heard her say anything about that.
Q What would she talk about ? A She wouldn't talk about anything in particular, but then from what she said you could tell that she wasn't right, I can't remember what she said.

Q She gave you the impression that she wasn't right in her mind ?
A Yes sir.
Q Did you think she knew what she was about the most of the time ; what she was doing ? A Well, I can hardly say, I don't hardly believe she did though.
Q She knew you all ? A Yes sir.
Q Called you by name ? A Yes sir.
Q Would go backwards and forwards to your house alone ?
A Yes sir.
Q Were there times when she was worse than others ?
A Yes sir I think she was.
Q Were there ever times when she appeared to be alright in her mind ? That is after her marriage to Wallen.
A Yes sir.
Q That's the only acquaintance you had with her, when she was visiting at your house, is it ? A Yes sir, I knew her all the time then, she was at our house often, and stayed with us as much as she ~~x~~ stayed with anyone else.
Q Quite a number of years ? A Yes sir, after she left him she was there as much as she was anywhere else.
Q Did she seem to be getting worse all the time ?
A Oh yes sir, she got worse all the time.
Q Did she look like a person who was out of her mind ?
A Yes sir.
Q You suspected that by her appearance did you ? A Yes sir.
Q Well, when she came to your house first after she left Wallen, did you hear that she was not in her right mind, or did you discover it then ? A We had heard it.
Q Do you think you would have discovered it from her actions if you hadn't known it before ? A Yes sir I do.

Examined by J. C. Starr:

Q Was she regarded generally by the community as an insane woman ?
A Yes sir.
Q Well, did you hear of her being not of sound mind before she married Wallen ? A I don't remember whether I ever did or not.
Q A stranger, in talking to her, at the time she came to your house after she left Wallen, would discover that she had lost her mind, by talking with her ? A Yes sir.
Q A person that didn't know anything about her would have discovered that after talking to her ? A Yes sir.

Examined by the Commission:

Q They would discover that by what she said or by what she did ?
A By both.
Q Did she come to your house immediately after leaving Wallen ?
A No, I can't say how long afterwards, but it was after she left him.
Q You don't know how long, whether it was a week or a month or a year ? A No sir, it might have been a year or two.
Q You didn't know her at the time she married Wallen ?
A No sir we didn't know anything about it until after she had married him.
Q She was regarded as alright then ? A I didn't hear anything to the contrary, I don't remember.
Q When did you first hear that she was not in her right mind ?
A I can't remember it, I heard mother speak of her and tell us about her, but I don't know when she began to lose her mind.
Q You have talked with her yourself a good deal, haven't you ?
A Yes sir.

Q Would she sustain a conversation on any one subject ?
A Well sometimes she could talk, that is, answer questions, she could do that when she was taken away, she knew everyone that ever come to see her while she was there.
Q Did she ever do any cooking there ? A Yes sir.
Q She could cook alright ? A Yes sir she could cook a meals victuals sometimes.
Q Did she do house work ? A She didn't do much of that.
Q What she did she did alright ? A She did about like a child would do, but not like a grown person. She imagined she could do it as well as anybody, and when we said anything to her about doing it she would get mad.
Q Did she understand it ? A Not any more than a child would.
Q How in cooking meals, would she know how to get them up ?
A Well, she would make a very good out at it; but we never liked for her to do anything that way.
Q Afraid she wouldn't do it right ? A Well, she didn't do it like we wanted it done.
Q Weren't afraid of her were you ? A No sir, we never were afraid of her.
Q She was always considered harmless ? She was just silly and demented ? A Yes sir.

W. W. WEIR, re-called, and examined, testified as follows:

Examined by the Commission:

Q Did you know Shadrack C. Wallen very intimately Mr. Weir ?
A No sir, I just knew the man when I see him, that's all.
Q You never knew him until he married your sister ?
A They had separated I reckon before I got acquainted with him.
Q How old a man was he ? A That's too hard for me, he had a big family of grown children though.
Q How old was your sister at that time ? A She must have been forty five or fifty.
Q Her husband was older; this Wallen was older ?
A Yes sir.
Q His children were all grown ? A Yes sir, about it.
Q He had no little children to care for then ?
A No sir.
Q And you don't know how long they had been acquainted when they got married ? A I don't know; I don't think they had been acquainted at all, he may have saw her a time or two, the way I was informed, I don't know it to be a fact, but I think it was talked up between the neighbors for the marriage.
Q They wanted her to get married to him so as to get rid of her ?
A Yes sir, so as to keep from being bothered with her. They all thought well of her, but she would bother them so.
Q Was that just a surmise on your part or is that neighborhood talk ? A Which ?
Q What you are stating now ? A Oh that's neighborhood talk.
Q Well now, Mr. Wallen, was your sister's mental condition such that she could be easily led or easily influenced by anybody ?
A Yes sir, I think it was.
Q Did you find that out in your intercourse and conversations with her ? A Yes sir.
Q Just like a baby was she ? A Yes sir, it would make no difference who it was, if they was just good to her, when she had control of any money, and just even say "I am sick and aint got no money to buy no medicine", she would just pull out a ten dollar bill and just give it to them, it would make no differnnce who it was.

Q Well, what I want to get at is was she stubborn or was she easily influenced ? A She wasn't stubborn, no sir.
Q This man Wallen wasn't a citizen, of course ? A No sir.
Q What was his business, farming ?
A Farming I suppose, I wasn't acquainted with him.
Q Did he have a farm ? A He was living on a farm I think he had bought from somebody; I think that's what he married her for. He was living on the old Parks farm, I think he had bought that through a sham, you know, and that's what I thought he married that woman for.
Q Your explanation is that he married her to hold that place ?
A Yes sir.
Q That is your suspicion ? A Yes sir.
Q Did he ever make any attempt to get her to go back ?
A Not that I ever knew.
Q Did he ever support her ? A No sir, I don't suppose he ever give her a dollar.
Q Did he ever look after her at all ?
A No sir, not more than if he had never been acquainted with her.
Q This asylum she is in now is supported by the Nation ?
A Yes sir.
Q Do you know who performed the marriage ceremony between Wallen and your sister ? A I think, but I don't know, I think Ose Harless' wife.
Q Did she perform the ceremony ? A No sir, I thought you said who persuaded her. Unless it was Jeff McGee I don't know who it was that married them, sure. I can't say who it was.
Q You say you don't know much about Wallen himself ?
A No sir.
Q You don't know what kind of man he is at all ?
A No sir, I know him when I see him and that's all; I don't know if I would know him now if I was to meet him.
Q Do you think your sister could have been influenced by Wallen to marry him ? A Why yes sir, and the neighbors around there together, you know; yes sir that's the way they married. Now of course I don't know it.
Q Your home was always open to your sister wasn't it ?
A Yes sir, and I wanted her to stay there, and she wouldn't stay there, and whenever any of us would buy her any good clothes, the first person she would get to she would give them to them.
Q It wasn't necessary for her to marry Wallen, then, to get a home ? A No sir, not only did she have a home with us, but any of the neighbors would take care of her.
Q Were any of Wallen's children living with him when he married her ? A I think he had some of his children there.
Q Grown up ? A Yes sir.
Q Was your sister of any use around the house at the time she married Wallen ? A Of very little; she was a draw-back around the place instead of being any use, because she would go to work, you know, and mess up a whole lot, and they would have to throw that out and cook a new meal, that's just the way it was exactly.
Q You never talked to your sister about her relations to Wallen ?
A No sir, never did say a word about it, she didn't want to talk about it.

DAVID W. BECK, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q State your name ? A David W. Beck.
Q How old are you ? A I will soon be sixty seven.

Q What is your post office address ? A Chelsea.
Q Are you a citizen of the Cherokee Nation ? A Yes sir.
Q Do you know Shadrack C. Wallen ? A No sir.
Q You know of him ? A I heard there was such a being as that that married this woman in question, Ann Eliza.
Q You knew her ? A Yes sir, she is a relation of mine.
Q Did you know her prior to the time she married Wallen ?
A Yes sir.
Q What relation was she to you ? A Her and my father was own cousins. Make me and her second cousins I guess.
Q Do you remember when she married Wallen ?
A I don't remember when it was.
Q You remember the occasion ? A No, I don't remember anything about the time. You see I left there in 1883.
Q You remember the occasion ? A I remember hearing of it.
Q You knew her, did you, at the time she was the wife of Woodard ?
A Yes sir.
Q From that time up to the time she went to the asylum you were more or less acquainted with her ? A Yes sir, I saw her last fall was a year ago at Fairland; I seen her off and on.
Q What was the state of her mind, what was her mental condition before and at the time she married this man Wallen ?
A Well, at times, when she was staying at my house she would seem to have the presence of about a half min, and at other times none at all.
Q What do you mean by having none at all, what were her actions at the times you say she had no mind at all ?
A She would go around and get things and tear them up, clothes or garments or any little thing; and sometimes she would take a chair up in her lap, and from the way she acted it seemed like she was nursing it, and ask her what she was doing, and she would say nothing. I seen her doing that at Fairland.
Q I am talking about the time she married Wallen ?
A I don't know, I left there in 1883.
Q You didn't know her at the time she married Wallen ?
A I was living over here and didn't hear much about her.
Q At the time she stayed at your house when was that ?
A It was along from 1880 until 1883 off and on.
Q That was about the time she was married to Wallen wasn't it ; that was before she was married to Wallen was it ? A Yes sir.
Q That's the time you are speaking of ? A Yes sir.
Q Now would she be tractable, biddable at times ? A At times. Just as much so as any person you ever saw.
Q Would do anything you would ask her to do ?
A No sir, she would do it in a friendly way, she wouldn't carry water nor wash dishes.
Q That was at times ? A Yes sir.
Q At other times how would she be ? A She would start like she was going to do it, and not finish, and sometimes she would finish it up.
Q What was your judgment about her mental condition at that time ?
A Well, I thought her mental condition was bad.
Q Did you think she was crazy or weak-minded ?
A She wasn't crazy to hurt anything or anybody, but she didn't have mind enough about her to take care of herself as a person should.
Q Do you think, from what you knew of her then, that she could have been influenced to marry this man Wallen without really desiring to do it ? A Yes sir.
Q You think so ? A Why yes sir.
Q You didn't know Wallen you say ? A No sir, I didn't know a thing about it.
Q Were you surprised when you heard she was married ?
A Yes sir I was; I didn't know why on earth any man in the world

would marry her; if he had known her I don't think he would have married her.
Q Do you think he knew her ? A Not lonf, from the simple fact that she was crazy.
Q Could you have told from conversation with her that she was not in her right mind ? A Why yes.
Q It wouldn't take you long to find it out ?
A No sir, it wouldn't.
Q This was all before she married Wallen, that you speak of ?
A Yes sir.
Q Do you know how long she lived with him ?
A No sir, they parted before I heard they was married.
Q Did she come to your house after that ? A No sir, I never seen her from 1883 or 1884 until I met her at Fairland last fall, she didn't know me, and asked me what my name was, and when I told her she began to cry, and went into the house and left me standing out on the porch; she was out in front when I drove up, and she didn't know me.
Q Did she ever talk with you about her marriage to Wallen ?
A No sir; I never said a word to her about it; I heard her tell them she married and her and the man separated pretty soon after marriage, and some how or another I had a delicad y about saying anything about it.
Q In talking with her would she talk silly ? A Yes sir.
Q At times or all the time ? A Well, the last time I seen her she talked that way all the time.
Q At the time she was at your house would she have moments when she would talk reasonably ? A No sir, when she began to talk her mind would just wander about on everything; and every once in a while she would speak about children, and wish she was where they were.
Q You say she impressed you as being a woman that was weak-minded ?
A Yes sir.
Q She didn't have any delusions about things ? A No sir.
Q Didn't imagine people were there when they were not there ?
A No sir, but she would talk to people that wasn't there.
Q But did she imagine that they were there present ?
A No sir, I reckon not, we couldn't tell it by the expression.
Q You say at times she was as biddable as a child ?
A Yes sir.
Q Could do pretty near anything with her that you wanted to ?
A Yes sir; that is she would get out of your house, or sweep, and sometimes she would pick up a broom and set it down in another place, and say anything to her about it and she would say "Well I will do that directly".

Examined by J. C. Starr:

Q When she was staying at your place just prior to her marriage to Wallen, could a stranger have told from her actions and from her talk that she was crazy ? A Yes sir.
Q She was in this condition for several years just prior to her marriage to Wallen ? A Yes sir.
Q She was generally regarded by the community there as a crazy woman ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this April 14, 1903.

Samuel Foreman

Notary Public.

CD368

COMMITTEE ON TO
TO
APR 20 1983

CHAIRMAN

PRESTON S. DAVIS,
Attorney and Counsellor at Law,
OFFICE JUST NORTH OF U. S. COURT BUILDING.
VINITA, IND TER.

Vinita I. T. March 15-1902

Mr. J. C. Adam Muskogee I. T.

Dear sir. I have just found out that Shadrick C. Walkins wife was Married twice before he married her her Brother Web Wim told me this today. her first man was named Woodland her second man was Bill Nellis. both set alive so at least her last husband Bill Nellis is and Wim says she had no divorce from him he Claim Nellis. so does Bill Bradford say that Nellis had no divorce from his wife (Walkins) wife Lizzie or Eliza Woodland is Walkins wife or was and lives at Brack Wims at Fairland I. T.

Mrs Susey Edmons is B. C. Englands Sister. she told me that Walkins wife told her Walkin give her $25 not to have him so she would be a good Witness she lives at Afton I. T. I am working on the George S. Ford Case will write you in a few days and give

Yours and the information I can
Respectfully.

D. J. Howard

J. C. Allen
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Atoka I. T. Mar. 23, 1902

Mr. J. G. Slater
Muskogee I. T.

Dear Sir
I dont know any thing
my self in regard to the
Creeks intermarried Whites but
only what I have heard
that Wm or Weir of Vinita
is Mrs. Walker's brother
and I did see she was
engaged in company
of making a Mare in Contract
he also knows something
about Walker winning the
money I know I think but
I dont want to tell
any thing unless he brought

before the Leavy Com-
Uical England's Sister or
B. C. England's sister I
have forgotten her name
told me that Walters wife
told her that Wyllen gave
her sister to leave him.
She would make them a
good. Tears for she
was a neighbor of them.
She knows all about the
case. Mrs B. C. England
of [illegible] and she knows his
sisters name. Joe Merrick
Rat of Mt Tom knows all
about Walters divorce he
was Clerk of Court at the
time Walter got his divorce
Joe told me so. I think
Joe Merrick Rat would make
a good witness in the Wyllen
case

I found out Neal England's
Sisters Name and wrote it
to you from Vinita last
Week. You had better have
Nate Weir for a witness for
he knows all about it -
As does B. C. England's
Sister. I have forgotten
her name since Nate Weir
told it - [illegible] Vinita.
I know the women when I
see her but forgot her name -
You will find inclosed
a letter to B. Beadles
of Lawrence Kan - please
give it to him -
Yours very Respectfully

[illegible]

Box 42 Elton Ind Ter

D. C. Walker Case

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Aitoe, D. T. March. 23. 1902

Mr J. C. Starr

Muskogee, I. T.

Dear Sir. I wrote you a few days ago in regard to S. C. Walker case. I have just been to see Mrs ~~Dinsy~~ Edmon. she is B. C. England's Sister. She stated to me that Eliza Wood and Walker's wife told her that S. C. Walker gave him money to marry him and that it was agreed before they married that they were not to live together as husband and wife but the marriage was just to give Walker a right in the Nation. it was a contract between them to marry and separate

they went to Jeff McGees to
Marry on Horse back and then
separated Mrs. Walen was
a Widow. Married Woodland.
he died she then married Bill
Nabbis and they separated. No
Divorce. Then she Married
Sol. Walen. They separated.
Walen got a divorce. Howdy
Bell was his Attorney. Joe
Mundcraft was there for inter-
ritor. Jeff McGee Clerk
Joe Mundcraft knows all
about it. talked with him
yesterday, went to see Mrs
Nancy Edmon and had a
talk with her she was a
close neighbor to Walen
knows all about the case
Walens wife is at Bonnie
Wins at Mainland. I. T.

3

Walker's wife goes by the
Name of Eliza Woodward
Jesse Chest Witness as a
Recit – is Wife Wm. Eliza or
Eliza Woodward. Among
Bad people for Trust & Rat
with Rev Pryor Jeff McGee.
Any thing I can do
Belong you in any case
Respectfully

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D-368

ADDRESS ALL MAIL TO THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 16, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby notified that on February 25, 1903, before the Cherokee Land Office of this Commission at Vinita, Indian Territory, additional testimony will be taken in the matter of the application of Shadrach C. Wallen for enrollment as a citizen by intermarriage of the Cherokee Nation.

You can, if you desire, be present on that day and introduce any further testimony you may have tending to disprove the right of this applicant to enrollment.

Respectfully,

Acting Chairman.

GRS

Saturday
2 pm

AFTON
MAR
25

Mrs. C. Starr
Montrose
L. I.

J. P. Williams
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IN THE MATTER OF THE APPLICATION OF

Shadrack T. Walker

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 20. 1900
B - Memo of application. " 20. 1900
C - Marriage License and Certificate
D. Notice of final Consideration
E Order closing testimony, Feb. 25, 1902

Cher D 369

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 20,1900.

In the matter of the application of Julia Billingslea for the enrollment of herself, husband and children as Cherokee citizens; being sworn and examined by Commissioner Breckinridge she testified as follows:

Q What is your full name? A Julia Billingslea.
Q How old are you? A Twenty-eight.
Q What is your post-office? A Adair.
Q What Nation do you live in? A Coowescoowee.
Q Who is it you want to have put on the roll? A My own is the Indian.
Q When were you married? A We was married in 1894.
Q Durrell, your husband and two children; is that it? A Yes sir.
Q Where is your husband? A He is at Wagoner.
Com'r Breckinridge: You send word to him that he must apply for his own enrollment.
Q What is he doing down there? A I don't know; he is working at some kind of business.
Q How long has he been down there? A He hasn't been down there but two weeks. He works there.
Q He hasn't run off? A No sir; he just went down there to work.
Q Are you a Cherokee by blood? A No sir.
Q You are a white woman? A Yes sir.
Q And your husband is a Cherokee by blood? A Yes sir.
Q What percentage of Cherokee blood is he? A One-sixteenth.
Q What was your name before you married your husband? A Moore-house.
Q How old are you? A Twenty-eight.
Q When were you married? A I was married April 16, 1894.
Q You and your husband lived together ever since you were married? A Yes sir.
Q Lived all the time in the Cherokee Nation? A Yes sir.
Q You have no marriage certificate with you have your? A No sir
Q Give me the names of these two children? A The oldest one is named Lucy.
Q How old is Lucy? A She is five years old.
Q What is the name of this little one? A Robert.
Q How old is Robert? A He is three years old.
Q Give me your husband's full name? A Jack Billingslea.
Q How old is he? A He will be twenty-six next month.
Q Was he born in the Cherokee Nation? A No sir, he was born in Texas.
Q When did he come to the Cherokee Nation? A I couldn't tell you; he came here though when he was a little boy.
Q What is the name of his father? A Frank.
Q Is he dead or alive? A He is alive; he lives here in town.
Q Cherokee or a white man? A White man.
Q Give me the name of your husband's mother? A Her name was Joanna.
Q Was she a Cherokee or a white woman? A She was a Cherokee.
Q She is dead? A Yes sir.
Q How long has she been dead? A I couldn't tell you that.
1880 roll examined for husband, and name not found.
1896 roll examined for husband and old child, and applicant, and names not found.
1894 roll, page 141 #650 Jack Billingslea, Coowescoowee.

Com'r Breckinridge: The applicant applies for the enrollment

of herself, her husband and two children; her husband is said to have been born in Texas, but to have come to the Cherokee Nation when he was a child, and to have lived here ever since; he cannot be identified however, except upon the pay roll of 1894; his wife states that she and her husband were married in 1894, and their older child is too young to be upon the roll of 1894; the application for the enrollment of Jack Billingslea and his wife and two children will be placed upon a doubtful card, and his wife is desired to supply the Commission with certificates of birth as to both the children; she is enjoined to have the Commission supplied with more satisfactory evidence as in regard to the enrollment of her husband, and also with reference to his residence in the Cherokee Nation. Final decision of the Commission will be communicated to her at her post-office address.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green

Subscribed and sworn to before me this 22 day of September 1900.

J. G. Wallace

Commissioner.

D 369

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1900

ACTING CHAIRMAN

R. 120.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Mack Billingsles for the enrollment of himself, wife and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 4th that his case would be taken up for final consideration by the Commission on the 25th day of February, 1902, and that he could on said day appear before the Commission either in person or by attorney, when an opportunity would be given him to introduce any additional testimony affecting his application. Receipt has been acknowledged of the Commission's letter. The applicant called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for final decision upon the evidence now of record.

Commissioner.

Cher-D-369.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes,
Muskogee, I.T. October 10, 1902.

In the matter of the application of Julia Billingslea for enrollment as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of her husband, Mack Billingslea, and her children Homer and Robert Billingslea, as citizens by blood of the Cherokee Nation.

Julia Billingslea, called as a witness, being first duly sworn by the Commission, testified as follows:

Q What is your name? A Julia Billingslea.
Q What is your age? A Thirty one years.
Q What is your postoffice address? A Adair, I.T.
Q Are you a white woman? A Yes sir.
Q Claiming the right to be enrolled as a citizen by intermarriage of the Cherokee nation? A Yes sir.
Q What is your husband's name? A Mack Billingslea.
Q Is he a Cherokee by blood? A Yes sir.
Q Is he an admitted citizen? A Yes sir.
Q When was he admitted to citizenship? A I don't know that.
Q How long has your husband been living in the Cherokee nation? A He has been living here ever since he was seven years old.
Q When were you married to him? A I was married in April 16, 1894.
Q Is he your first husband? A Yes sir.
Q Are you his first wife? A Yes sir.
Q Have you and your husband been living together ever since you were married? A Yes sir.
Q Never been separated have you? A Yes sir.
Q When were you separated? A Two years ago.
Q Since you were enrolled? A Yes, he was gone when I went to enroll; he just had left.
Q Why did he leave you? A I can't tell you for I don't know.
Q Didn't he ever tell you why? A No, he didn't go with the intention of staying when he went.
Q What did he tell you when he went? A I don't know.
Q You don't know what he told you? Didn't he tell you anything?
A Why, he said he was coming back, of course; he didn't tell me he left with the intention of staying.
Q Where did he say he was going? A To Wagoner.
Q Said he was coming back soon? A No.
Q Did he come back at all? A Yes, he come back once.
Q How long after he had been gone? A It was two or three months.
Q How long did he stay with you when he came back? A He didn't stay but one day and night.
Q And went away again, did he? A Yes sir.
Q Did he tell you then why he was going away? A No sir.
Q Did he say he was going to leave you? A No, he never did in his life.
Q Did he ever come back again after he left you the second time? A No.
Q Did you ever try to get him to come back? A I don't know that I did.
Q You didn't make any serious effort, did you? A No sir.
Q What was the trouble between you? A I don't know; if there was any trouble I don't know it.
Q Did you ever give him any cause to leave you? A No, I never did.
Q You are sure of that are you? A I am sure of that, yes sir.
Q Where were you living at the time this separation took place? A Four miles north of Adair.
Q Were you living on your husband's place. A We was living on a place we had fixed for the children.
Q Are you living there now? A No sir.

Q Is your husband living there? A No sir.
Q How many children have you? A I have two.
Q Have your children always lived with you? A Yes sir.
Q They are both living now are they? A Yes sir.
Q Have you been living, and making your home, in the Cherokee nation ever since you were married? A Yes sir.
Q And you are certain now, that you never gave your husband any cause to leave you? A Yes, I am certain of it.
Q Did you get a letter from the Commission some months ago? A Yes sir.
Q Have you got it with you? A No, I didn't suppose it would be of any benefit to me.
Q What did they say in that letter? A They just notified me to appear here.
Q Who married you and Mack Billingslea. A Preacher Evans.
Q What was his first name, do you know? A Ransom Evans.
Q Where were you married? A Married in Big Cabin.
Q Is Ransom Evans living now? A I don't know; I suppose so.
Q Did he ever give you a marriage certificate? A No sir.
Q It will be necessary for you to get a marriage certificate of your marriage to Mack Billingslea. A I sent you witnesses.
Q You only sent in affidavits by witnesses; that is not sufficient. If you cannot get a certificate it will be necessary to bring in Mrs. Claud Cox and Maude Flourney. A I had these sworn.
Q Those two ladies were present and saw you married? A Yes sir.
Q You will have to get them in here and testify to that fact; You say your husband has been residing in the Cherokee nation ever since he was seven years old? A Yes sir.
Q You are sure of that, are you? A Yes sir.
Q Where has he been living all this time; in what district? A He has been in Wagoner part of the time; I don't know where he is now.
Q But before he was married, where had he been living? A In Vinita.
Q What is his mother's name? A Josie Billingslea.
Q What is his father's name? A Frank Billingslea.

October 19, 1902.

Nathan M. Drake, called as a witness in the above entitled case of Julia Billingslea (Cher-D-369), being first duly sworn by the Commission, testified as follows:

Q What is your name? A Nathan M. Drake.
Q How old are you? A 39 years.
Q What is your postoffice address? A Big Cabin.
Q Are you a citizen of the Cherokee nation? A Yes sir.
Q Do you know Julia Billingslea? A Yes sir.
Q Do you know her husband, Mack Billingslea? A Yes sir.
Q Do you know when they were married? A Yes sir.
Q When? A I can't tell the dates, but they was married in 1894.
Q Were you present at the marriage? A Yes sir.
Q Who married them? A A man by the name of Evans.
Q Preacher, was he? A Yes, a licensed preacher.
Q Have you known them ever since they were married? A Yes sir.
Q How near neighbors are you to them? A About two miles.
Q Are Julia Billingslea and her husband separated? A Yes, supposed to have been.
Q How long have they been separated? A I can't exactly say; something over a year--about a year.
Q Do you know of any trouble existing between them? A No, I never did.
Q You don't know the cause of the separation? A No sir.
Q Are her children living with her? A Yes, the last account I had of them.

S-D-369

Q How long ago was that? A That's been since last winter sometime, or this spring I think it was.
Q You never talked to her husband about the matter? A No sir.

Frances R. Lane upon oath states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of her stenographic notes thereof.

Frances R. Lane

Subscribed and sworn to before me this October 25th, 1902.

B C Jones
Notary Public.

Cherokee D 369.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T., October 30, 1902.

In the matter of the application of Mack Billingslea for the enrollment of himself and his two minor children, Homer and Robert Billingslea, as citizens by blood, and for the enrollment of his wife, Julia Billingslea, as a citizen by intermarriage, of the Cherokee Nation.

SUPPLEMENTAL PROCEEDINGS.

MACK BILLINGSLEA, being sworn, testified as follows:

By the Commission,

Q What is your name? A Mack Billingslea.
Q How old are you? A I was born in '75; 25th of October.
Q What's your postoffice address? A Catoosa, I. T.
Q Are you a citizen by blood of the Cherokee Nation? A Yes, sir.
Q What is your father's name? A Frank Billingslea.
Q Is he a citizen by blood? A No, sir.
Q He a white man? A Yes, sir.
Q What's your mother's name? A Josie Billingslea.
Q What was her name before she married your father? A Josie Gillis.
Q Is she a citizen by blood of the Cherokee Nation? A Yes, sir.
Q She recognized as a citizen by blood? A Yes, sir.
Q She on the rolls of the Cherokee Nation? A I suppose so, I don't know. She has been dead twenty years.
Q How long has she been dead? A Twenty years.
Q And how long have you lived in the Cherokee Nation yourself?
A Ever since '83.
Q Ever since '83? A Yes, sir.
Q Where did you come from? A Paris, Texas.
Q Was your mother and you admitted to citizenship by the Cherokee authorities after you came here or before? A You can see this.
Q Who is McLeod Billingslea? A I am .
Q Your right name is McLeod Billingslea? A Yes, sir.
Q Who's Frank Billingslea? A My brother.
Q Who's Helen Billingslea? A My sister.

The applicant presents a copy of the Act of the Cherokee Council of November 15, 1884, signed Roach Young, president Senate pro tem; John T. Drew, Clerk Senate. Not concurred in by Council November 24, 1884. Signed, Ned Grease, Speaker Council pro tem; W. S. Cordrey, Clerk of Council. Recommended and concurred in by Council December 2, 1884. Signed, Bird Jones, Speaker of Council; W. S. Cordrey, Clerk of Council. Approved December 2, 1884. D. W. Busheyhead, Principal Chief. Certified as a true copy by B. W. Alberty, Assistant Executive Secretary; attested by the seal of the Cherokee Nation. The same is filed herewith.

Q Now, are you yourself on any of the rolls of the Cherokee Nation, Mr. Billingslea? A Why, I ought to be, I have drew money several times.
Q When did you draw money? A I drawed at the big payment in '94.
Q The Strip payment? A Yes, sir.
Q Are you on the '96 census roll? A I don't remember whether I was or not.

Q Were you here in '96? A I was at Wagoner two years ago, 1900, when they enrolled at Vinita, and my wife enrolled for me.
Q Were you in the Cherokee Nation in '96, six years ago when the census was taken? A Yes, sir.
Q Was your name taken at that time, that is, two years after you drew money? A No, I remember the time. I went to Vinita to enroll and some of these little pamphlets were missing and they could not enrollme.
Q And that's the reason you don't appear on the '96 roll? A Yes, sir.
Q Now, Mr. Billingslea, when were you married to your wife, Julia?
A I was married in '94, 16th day of April.
Q Where were you married? A I was married about six miles north of Adair, between Vinita and Adair in the Cooweescoowee District.
Q In the Cherokee Nation? A Yes, sir.
Q Who married you? A A man by the name of Evans, a preacher.
Q Did he give you a marriage certificate? A Yes, he give me one but it is burned up in my house.
Q Is that preacher living now? Do you know where he is? A He was two years ago. He moved out of the neighborhood I lived in and I moved too myself. He did live around Big Cabin Switch. I don't know whether he is living now or not.

It will be necessary, Mr. Billingslea, in the absence of your marriage certificate for you to furnish the testimony of witnesses who were present and saw you married.

Q Have you and your wife, Julia, lived together since your marriage up until the present time? A No.
Q Have you separated? A No, we have not never separated, but we are not living together. I have not got any divorce. It has been two years since we lived together.
Q You and she had an actual separation? A Yes, sir.
Q Where were you living when you separated? A Adair. Adair was my postoffice.
Q Did you leave her or did she leave you? A I left her.
Q What was the cause of you leaving her? A Because I didn't want to live with her, that's the only reason. We didn't get along together.
Q You did not get along? A No, sir.
Q Has she ever applied for a divorce since you and she separated?
A No, sir.
Q She still your wife in the eyes of the law? A Yes, sir.
Q And she was your wife on the first day of September, 1902?
A Yes, sir, but we was not living together.
Q You have been separated for two years? A Yes, sir.
Q She has made no effort to get back to you, has she? A No, sir.
Q You just went off and left her at the place you was living?
A Yes, sir.
Q Is she still living at that place? A I don't know, she had control of the place.
Q Has she lived in the Cherokee Nation all the time since her marriage to you? A Yes, sir.
Q These two children, Homer and Robert, your children by her?
A Yes, sir.
Q Are these two children living? A Yes, sir.
Q Have they lived all their lives in the Cherokee Nation? A Yes, sir.

Q Where are those children now? A About four miles north of Adair.
Q Does she keep them or you? A She keeps them but I maintain them.
Q Do you support her? A No, sir.
Q You send money for their support, provide for them? A Yes, sir.

Retta Chick, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the matter of the foregoing application, and that the above is a true and complete transcript of her stenographic notes thereof.

Retta Chick

Subscribed and sworn to before me this 8th day of December, 1902.

F. S. Rentie
Notary Public.

Cherokee D 369

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of McLeod Billingslea and his two children, Homer and Robert Billingslea, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Julia Billingslea, as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N

The record herein shows that on September 20, 1900, Julia Billingslea appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation and for the enrollment of her husband, McLeod Billingslea, and her two children, Homer and Robert Billingslea, as citizens by blood of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 19, and October 30, 1902.

The evidence in this case shows that the said McLeod Billingslea is a Cherokee Indian and was admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation on December 2, 1884, and he is identified on the Strip payment roll of 1894. His wife, Julia, a white woman, was married to him on April 16, 1894, and the minor children herein are the issue of that marriage. They are identified by birth affidavits made a part of this record.

The evidence further shows that the said McLeod Billingslea has resided in the Cherokee Nation since the date of his admission to citizenship; that he and his wife lived together for about six years following their marriage and that they then separated, but there is no evidence that the said Julia Billingslea abandoned her said husband; that the said Julia Billingslea and her husband are not divorced and that she has been residing in said Nation since her separation from her husband. The minor children herein have resided in the Cherokee Nation all their lives.

It is, therefore, the opinion of this Commission that McLeod Billingslea, Homer Billingslea and Robert Billingslea should be enrolled as citizens by blood of the Cherokee Nation, and that Julia Billingslea should be enrolled as a citizen by intermarriage

of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Sign.) Tams Bixby.
Acting Chairman.

T. B. Needles
Commissioner.

C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,

this MAR - 2 1903

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-369

Muskogee, Indian Territory, March 11, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 2, 1903, granting the application of Julia Billingslea for the enrollment of herself as a citizen by intermarriage, and for the enrollment of her husband, McLeod, and her two minor children, Homer and Robert Billingslea, as citizens by blood, of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman.

Enc. M-1121

IN THE MATTER OF THE APPLICATION OF

Mrs Lady Billingslea et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 20, 1900
B. Merits of Applications " 20, 1900
C. Birthaffidavit - Homer Billingslea
D. " " - Robert Billingslea
E. Notice of final consideration

F. Order closing testimony, Feb. 25, 1902

See Cherokee docket 1902

Cher D 370

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 20, 1900.

In the matter of the application of Charlottie Temple Taylor for the enrollment of herself and son as Cherokee citizens; being sworn and examined by Commissioner Brockinridge she testified as follows:

Q What is your full name? A Charlottie Temple Taylor.
Q How old are you? A Thirty-eight.
Q What is your post-office? A Vinita.
Q In what district do you live? A Coowescoowee.
Q Who did you want to have put on the roll? A Myself and son.
Q How old is your son? A He is twenty.
Q Do you apply for your own enrollment as a Cherokee by blood?
A Yes sir.
Q What proportion of Cherokee blood do you claim? A One-sixteenth I believe.
Q How long have you lived in the Cherokee Nation? A Ever since the year of 1890.
Q Were you admitted to citizenship by the Cherokee Commission on citizenship? A Yes sir, We was admitted under Chief Mayes.
Q What was your name when you were admitted? A Charlottie Stubbs.
Com'r Brockinridge: The applicant presents an official copy of an Act of the Cherokee Council admitting certain persons to citizenship, the act approved Dec. 11, 1890, and among those admitted appears the name of Charlotta T. Martin.
Q Was that your name in 1890? A That was my maiden name.
Q And you claim citizenship as a child of that Martin? A Yes sir.
Com'r Brockinridge: The name is identical. The paper in question
Q It is through this paper and through that name you claim your citizenship as a Cherokee? A Yes sir.
Q Who insert d that T. in there? A I don't know.
Q Did you do it in the way did it? A Yes sir; - just the original.
Q What was your maiden name? A Charlottie Temple Martin.
Q Your father's name? A John Martin.
Q Was he a white man? A White man.
Q Was he alive? A Dead, he died about eight years.
Q Your mother's name? A Nancy Martin.
Q Was she a white woman? A Cherokee.
Q Dead or alive? A She is alive.
Q Have you been married more than once? A Yes sir.
Q What was your name before your first marriage? A My first marriage was Stubbs.
Q What was your husband's name? A John Robert Stubbs.
Q And when did he die? A Yes sir.
Q And did you marry after his death? A Yes sir.
Q When did you marry then? A Twelve years before.
Q And is he living? A Yes sir.
Q Are you divorced from him? A Yes sir.
Q And after you left him who was it you married next? A Mr. Warren Taylor.
Q After you were divorced from your husband before you resumed the name of Stubbs? A Yes sir.
Q And under that name married your husband W. T. Taylor? A Yes sir
Com'r Brockinridge: Applicant presents a certificate of marriage and license, license issued by the clerk of the United States Court, Vinita, October 9, 1897, authorizing her marriage as Charlotte Stubbs to W. T. Taylor; certificate shows that they were

so married on October 9, 1897; this will be filed herewith.
Q Have you lived in the Cherokee Nation ever since your admission in 1890? A Yes sir.
Q All the time, now [illegible]? A Yes sir, I haven't been out of the Territory.
Q [illegible] what name are you enrolled in [illegible] 1896? A I was enrolled under the name of Moore.
Q [illegible] you a copy of the decree of divorce from your husband Moore? A I never have called for it; they are in Claremore in the Clerk's office.
Q [illegible] the name of your husband? A John Sylvester Stubbs.
Q [illegible] in 1896? A [illegible]ty-two, the 8th of June.
Q [illegible] to citizenship at the time you were married? A Yes sir.

[illegible]: Applicant advises that her son will have to apply for himself.

[illegible] Charlottie Moore, Cherokee District, [illegible]

Q [illegible] known as Charlottie Stubbs [illegible] A Yes sir, E. Jackson Wilkerson.

[illegible] Hutchings:

Q [illegible] when [illegible] A Yes sir.

[illegible]:

Q [illegible] A I don't know; nineteen [illegible].

[illegible]:

Q What is your occupation? A [illegible] occupation.
Q You are at present Chief [illegible] A Yes sir.
Q What is your post-office? A Vinita, Indian Territory.
Q [illegible] Mrs. Taylor? A Yes.
Q [illegible] allegedly [illegible] in 1896 [illegible] application is it was Moore.
Q [illegible] A [illegible] Martin; I don't remember [illegible].
[illegible] Martin? A Yes sir.
Q [illegible] anything [illegible] married to Moore [illegible] A I do not.
[illegible] Yes sir, [illegible].

[illegible]: [illegible] on the roll of [illegible] Moore as a native [illegible]; [illegible] marriage licence [illegible] certificate [illegible] show that [illegible] married [illegible] Stubbs, [illegible] years [illegible] her [illegible] allowed [illegible] for [illegible] application [illegible] application will [illegible] the [illegible] application at [illegible] approved.

[illegible] Green, [illegible] that is stenographer

to the question to the [illegible] Tribes he correctly recorded the position and [illegible] in 2 in case and that the foregoing is a true and [illegible] transcript of his answer pertinent thereof.

M D Green

Subscribed and sworn to before me this [illegible] day of September 1900.

J B Taylor

Commissioner.

D 370

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1900

ACTING CHAIRMAN.

Supplemental Testimony to go with D Card #370.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 2d, 1900.

In the matter of the application of Charlotte Tayler for enrollment as a citizen of the Cherokee Nation, she beingsworn SUPPLEMENTS her testimony as follows:

Charlotte Taylor, being sworn and examined by Commissioner C.R. Breckinridge, testified as follows:

Q Give your pre ent name? A Charlotte Tayler.

The applicant presents a marriage license issued by the Clerk of Los Angeles County, California, October 11, 1887, authorizing the marriage between John R. Stuggs and Sharloty T. Martin, the latter a native of California, age at that time, 15 years. The certificate shows that they were united in marriage on the 5th of November of the same year, by C. W. Rumphris, Justive of the Peace. This is filed herewith.

Q How long did you live with your husband Stubbs? A I lived with him seven years, until he died.
Q From 1887 to about 1884? A Yes, sir.
Q And then what time did you marry your next husband? A I disremember, I think it was five or six years afterwards.
Q Along close on to 1890? A Yes, sir. He has got the marriage certificate.
Q Did you file a certificate of your husband More? A No, sir, he has it himself.
Q Did you karry a man named More? A Yes, sir.
Q Did you marry him after Stubb's death? A Yes, sir, and then I married Taylor after I was divorced from Moore.
Q And then when you applied for admission in 1890, you applied under your maiden name of Martin? A Yes, sir.
Q I see you applied with your child, John Stubbs, 12 years old?
A Yes, sir.
Q You applied for him at the same tije? A Yes, sir.
Q Who was Rebecca Martin?A This is my sister.
Q She married a man named Howard? A Yes, sir

Com'r Breckinridge:--This identified Mrs. Tayler with Mrs. Stubbs, and identified Mrs. Stubbs with the original Charlotte T. Matin, and will be filed with her application.

---oooOOOooo---

J. O. Mosson, being first duly sworn , states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Mosson

Subscribed and sworn to before me this 5th day of October, 1900.

C R Breckinridge

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 16th 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Charlottie T. Taylor, Cherokee Doubtful case 2270.

Appearances:
J. L. Baugh for the Cherokee Nation.
Applicant present in person.

B. C. Chouteau, being first duly sworn by Commissioner T. B. Needles, testified as follows on behalf of the applicant:

(By the Commission)
Q What is your name? A B. C. Chouteau.
Q What is your age? A About 65.
Q What is your post office address? A Vinita.
Q Are you a Cherokee citizen? A Shawnee.
Q Shawnee by blood? A Yes sir.
Q Do you know the applicant Charlottie T. Taylor.
Q How long have you known her? A Ever since she was a child, I knowed her father well.
Q What was her father's name? A Jack Martin.
Q What was her mother's name? A Nancy.
Q Nancy Martin? A Yes sir.
Q Was Charlottie Taylor's maiden name Martin? A Yes sir.
Q Do you know herfirst husband's name? A Stubbs.
Q Do you know who she married after she married Stubbs? A Bill Moore.
Q What is her husband's name now? A I dont know.
Q How long did you say you had known her? A I have known her ever since she was a little girl, but I have not kept the run of her all the time.
Q Where does she reside now? A I dont know, I suppose she resides in Vinita now.
Q You know that her maiden name was Charlottie Martin? A Yes sir.
Q She in her original application presented an official copy of an act of the Cherokee Council admitting certain members of her family to citizenship, and among them appeared the name of Charlottie T. Martin, do you know this applicant to be the identical Charlottie T. Martin who was admitted at that time? A I suppose so, she was the child of Jack and Nancy Martin, that is all I know.
(By Mr. Baugh)
Q Where did you first get acquainted with them? A In California.
Q About what time did they return to the Cherokee Nation? A I think about '89 or 90.
Q Do you know is she has been living in the Cherokee Nation ever since that continuously? A I think she has, I can't say positively.

* * * * * * * *

CHARLOTTIE T. TAYLOR, the applicant, being first duly sworn by Com'r T. B. Needles, testified as follows in her own behalf:
(By the Commission)
Q What is your name? A Charlottie T. Taylor.
Q You are the applicant in this case? A Yes sir.
Q When did you come to the Cherokee Nation? A Year of '90
Q Where from? A California.
Q Come with your father's family? A Yes sir.
Q Have you lived in the Cherokee Nation ever since '90? A Yes sir.
Q Living in the Cherokee Nation now? A Yes sir, it is my home.
(By Baugh)
Q You have never resided out of the Nation? A Never here.

= = = =

Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 16th of October, 1901.

10370

DEPARTMENT OF THE INTERIOR,
COMMISSIONER OF THE GENERAL LAND OFFICE.
FILED
OCT 22 1901

ACTING CHAIRMAN

VALLEY PA

D. 570.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Charlottie T. Taylor for the enrollment of herself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 8th that her case would be taken up by the Commission for final consideration on the 25th day of February, 1902, and that she could on said day appear before the Commission either in person or by attorney, when an opportunity would be granted her to introduce any further testimony affecting her case. Receipt has been acknowledged of the Commission's letter. The applicant called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for a decision based upon the evidence now of record.

Commissioner.

D370

Cherokee-D-570

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Charlotte T. Tayler for the enrollment of herself as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 20, 1900, the applicant, Charlotte T. Tayler, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her son, John S. Stubbs, as citizens by blood of the Cherokee Nation. The applicant, Charlotte T. Taylor, again appeared in person before the Commission at Vinita, Indian Territory, on October 2, 1900, and submitted testimony in this case, and again at Vinita, Indian Territory, October 16, 1901, and submitted further testimony in the case. John S. Stubbs has been listed for enrollment on Cherokee Roll Card Field No. 3186.

It appears from the evidence in support of this application that Charlotte T. Taylor was admitted to citizenship in the Cherokee nation by an act of the Cherokee National Council approved December 15, 1890, under the name of Charlotte T. Martin. She is duly identified on the 1896 census roll of the Cherokee Nation, page 216, No. 3310.

The authority of the Commission herein is defined in Par.1, Sec. 21, of the act of Congress, June 28, 1898(30 Stats., 495).

It is therefore the opinion of this Commission that Charlotte T. Tayler is lawfully entitled to be enrolled as a member by blood of the Cherokee Tribe of Indians in Indian Territory, and

that the application for her enrollment as such should be granted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this MAY 27 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 27, 1902.

W. W. Hastings, Esq.,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes rendered May 27, in the matter of the application of Charlotte T. Taylor for the enrollment of herself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of said person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Acting Chairman.

Encl. D-570.

IN THE MATTER OF THE APPLICATION OF

Charlottie S. Taylor

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 20, 1900
B. Meth. of application. " 20, 1900
C. Additional testimony. October 2, 1900
D. Marriage License and Certificate. Taylor to Stubbs
E. " " " " Stubbs " Martin
F. Supplemental testimony. Oct 11, 1901
G. Notice of final consideration
H. Order closing testimony, Feb. 25, 1902

Cher D 371

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 20, 190[illegible].

In the matter of the application of Mary L. Strickland for the enrollment of herself, and children as citizens of the Cherokee Nation; said Strickland being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Mary L. Strickland.
Q What is your age? A [illegible].
Q Post office? A Nowata.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizenof the Cherokee Nation? A Yes, sir.
Q By blood or intermarriage? A By blood.
Q What degree of blood do you claim? A One-eighth.
Q For whom do you apply for enrollment? A Myself, and three children.
Q What is the name of your children? A Roy.
Q How old is he? A Six years old.
Q When was he born, what year? A 1894.
Q What is the name of the next one? A Ellen.
Q How old is Ellen? A Three.
Q What is the name of the next one? A John R.
Q How old is John R.? A One year.
Q Have you proof of birthof this child? A They have been placed on the roll.
Q Where have you been living since 1896? A I have been here part of the time and in Georgia part of the time, just go back and forth.
You say you have been living here part of the time and in Georgia part of the time; what do you mean by that; how long have you been living here and how long in Georgia? A My home is here.
Q Where do you live now? A In Georgia.
Q How long have you lived in Georgia? A I was born there.
Q And have lived there always, have never livedanywhere but Georgia? A No, sir.
Q You are married? A Yes, sir.
Q Your husband living? A Yes, sir.

[illegible]. W. Hastings, Representative of the Cherokee Nation:

Where were you when these two youngest children were born? A In Georgia.
Q You have been here about a week? A About two weeks.
Q Come straight here for the purpose of enrolling? A Yes, sir. I own property in the Cherokee Nation.

Com'r Needles:--The name of Mary L. Strickland does not appear on any rolls of the Cherokee Nation, but upon examination of the records it is found that she, the said Mary L. and her son, Roy Strickland, were admitted to citizenship by the Dawes Commission to the Five Civilized Tribes, on the first day of September, 1896, in Dawes Commission case #5350, they being admitted to citizenship by blood. No appeal being taken the said decision of the Dawes Commission as to her citizenship is final.

She avers that she has two children, Ellen and John R., who are born after her admission, and presents proof of birth as to them. Her evidence shows that she is a resident of Georgia and has been since she was admitted, consequently final judgment as to the application for herself and her children to be enrolled as Cherokee

citizens, will be suspended, and her and her son Roy will be placed upon a doubtful card, and it will be necessary also to file with this Commission satisfactory proof of birth as to her two children Ellen and John T. She avers that she has property in the Cherokee Nation.

---oooOOOooo---

J. W. Besson, being first duly sworn, states that as stenographer to the Commission to the Five Civil and Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. W. Besson

Subscribed and sworn to before me this 22d day of September, 1900.

Commissioner.

D371

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1900

ACTING CHAIRMAN.

D. 371.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Mary L. Strickland for the enrollment of herself and children as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 8th that her case would be taken up by the Commission for final consideration on the 25th day of February, 1902, and that she could on said day appear before the Commission either in person or by attorney, when an opportunity would be given her to introduce any further testimony affecting her application. She has been called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Commissioner.

Cherokee-D-371

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Mary L. Strickland for the enrollment of herself and her three minor children, Roy, Kilene and John R. Strickland as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 20, 1900, the applicant, Mary L. Strickland, appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of herself and her three minor children, Roy, Kilene and John R. Strickland as citizens by blood of the Cherokee Nation. From the evidence in support of this application it appears that Mary L. Strickland and Roy Strickland were admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes on the first day of September, 1896 and no appeal appears to have been taken therefrom. The children Kilene and John R. Strickland were born since the date of said admission as appears from affidavits of birth filed in this case. It further appears from the evidence in support of this application that none of the applicants have ever removed to and in good faith settled in the Cherokee Nation or Indian Territory.

The authority of the Commission herein is defined in Par.9, Sec. 21, of the act of Congress approved June 28, 1898 (30 Stats., 495):

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is therefore the opinion of this Commission that Mary L. Strickland, Roy Strickland, Kilene Strickland and John R. Strickland are not lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the applica-

tion for their enrollment as such should be refused, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory.

This DEC - 1 1902

Cherokee R-845

Department of the Interior,
Commission to the Five Civilized Tribes,
Cherokee Land Office,
Tahlequah, I.T., July 31, 1903.

In the matter of the application of Mary L. Strickland for the enrollment of herself and her children, Roy, Ellene and John R. Strickland, as citizens by blood of the Cherokee Nation.

SUPPLEMENTAL TESTIMONY.

MARY L. STRICKLAND, being duly sworn and examined by the Commission, testified as follows:

Q What is your name? A Mary L. Strickland.
Q How old are you? A 36.
Q What is your postoffice address? A When I am in the Territory it is Nowata, and when I am in Georgia it is Cumming.
Q Have you heretofore applied for the enrollment of yourself, your son Roy, your daughter Ellene and your son John R. Strickland, as citizens by blood of the Cherokee Nation?
A Yes sir.

Commission: It appears from the record in this case that, on December 1, 1902, the Commission rendered a decision denying the right of the applicants therein to enrollment, which decision was approved by the Secretary of the Interior on February 28, 1903; that on April 27, 1903, the case was reopened and remanded by the Department for the taking of further testimony and readjudication.

Q You claim your right to enrollment by virtue of having been admitted to citizenship by this Commission under the act of Congress of June 10, 1896, do you? A Yes sir.
Q And your son Roy was also admitted at that time? A Yes sir.
Q Where were you living when you were admitted? A Living in Georgia and on the farm here in the Territory.
Q Did you buy that farm here before your recognition as a Cherokee citizen? A Yes sir.
Q Have these three children lived with you all their lived?
A Yes sir.
Q After you were admitted, Mrs. Strickland, when was the first time you came to the Cherokee Nation? A In '99; in '96 I was here, in '96 and here in '95.
Q After you were admitted I mean? A 1900.
Q From the time when you were admitted by this Commission as a citizen of the Cherokee Nation, you never came to the Cherokee Nation until 1900; is that correct? A Yes sir.
Q You speak of having been here in '95 and '6; was that prior to your admission? A '95 was prior; '96 I was here; I was admitted in that year.
Q What time of the year were you here in '96? A August, September and October.
Q When did you leave the nation and go back to Georgia?
A Went back in October.

Q What time in '96 were you admitted by the Commission?
A Well, I don't remember just the date.
Q It was while you were here, was it? A They didn't render the decision then.
Q Did you know what disposition was made of your application prior to the time you left here and returned to Georgia? A No sir.
Q You didn't hear what was done with your application until after you went back to Georgia? A No sir.
Q And when you went back to Georgia in '96 you staid there till 1900? A No sir, I was here in '97; no, that's right I was here in 1900. Here in '95, '96 and 1900.
Q After you made application for admission, was the next time you came to the Cherokee Nation when you applied for enrollment in 1900? A Yes sir.
Q And during the four years from '96 to 1900 you were making your home in Georgia with your husband? A Yes, I was there at his command; I had to, he wouldn't let me stay here.
Q What property did you own in the Cherokee Nation when you were admitted? A A farm.
Q How many acres? A 360.
Q Any improvements on it? A Yes, it was improved; fences and house.
Q Did you own any cattle? A No sir.
Q Did you rent that farm? A By permit from the Cherokee Nation.
Q Do you own that farm now? A Yes sir, still own it.
Q What year did you purchase it? A 20th day of September, 1895 was when I bought it.
Q Have you ever owned any other property in the Cherokee Nation?
A Yes sir, I owned a town lot in Pryorcreek.
Q Any other property? A And I bought two other lots in Nowata.
Q Do you still own them? A Don't own any of them now. Sold the one in Pryorcreek two years ago.
Q And when did you sell the ones you bought in Nowata?
A I never got a title to those, only made two payments on them; didn't finish paying for them.
Q What year did you buy that lot in Pryorcreek? A Bought it in '95.
Q You bought that also before you were admitted to citizenship?
A Yes sir.
Q What year did you sell it? A Sold it in 1900.
Q The only property you have ever owned then is this farm and a town lot in Pryorcreek? A Yes sir.
Q And you still own the farm? A Yes, still own it.
Q Where is it located? A 3 miles east of Nowata.
Q When you came here in 1900 and applied for enrollment, how long did you remain? A A month I believe it was.
Q Then you went back to Georgia? A Yes sir.
Q Your husband is a citizen of the State of Georgia? A Yes sir; when he found out we were going to have such a mixed up affair out here, he wouldn't come; he applied for citizenship out here and was rejected.
Q You mean he applied for citizenship in '96? A Yes sir.
Q Was he included in the same application you made? A Well, I don't remember, seems to me it was a little afterward.
Q Did he make a separate application? A Yes sir. He was coming out here himself and was going to locate at Adair.
Q He claimed to be a citizen by blood also, did he? A No sir, he is not a Cherokee.
Q Did he claim to be a citizen by virtue of his marriage to you?
A Yes sir.
Q You keep house in Georgia? A Yes.
Q Have you any personal effects, any household goods here at all?
A Yes sir.

Q I mean in the Cherokee Nation? A Yes, I have some out there on my farm; I have a bed and stove and tub.
Q They are in the house, are they? A Yes sir.
Q And the house is rented? A Yes sir.
Q Were your three children born in Georgia? A Yes sir, all born there. My husband being a physician of course I would be with him.
Q Mrs. Strickland, your statement then is that you were here about 3 months in '96 and during that time applied to be admitted as a citizen of the Cherokee Nation; that you went back to Georgia before you heard what disposition had been made of your application, that is, you went back in October? A At the demands of my husband; he made me go.
Q And since 1896 you have only been in the Cherokee Nation once prior to this time and that was in 1900 for about a month when you applied to this Commission for enrollment? A Yes sir.
Q Have your three children ever been in the Cherokee Nation?
A Two of them has.
Q The two oldest were here with you in 1900? A The oldest and the youngest.
Q The only property you have ever owned in the Cherokee Nation was a farm near Nowata of about 300 acres, which farm you still own and have rented, and a town-lot in Pryorcreek which you sold in 1900? A Yes sir.
Q Any further statement you wish to make? A Well, I wish to say that every time I left the Cherokee Nation my husband made me leave, every time I was here.
Q What has been your intention relative to returning to the Cherokee Nation and making your homw here? A My intention was to stay here but my husband wouldn't do it and I had to do what he said.
Q What was his intention? A Well, his intention was to stay here, until he was rejected.
Q In '96? A Yes sir.
Q And since that time he has had no intention of living here?
A No sir.
Q Whose money was it that purchased this farm? A It was my own, made by my own hands; I bought it for myself and children; it belongs to me and them; my husband has nothing to do with it. I have never abandoned it and still own it, bought it in good faith expecting to live in the Territory when I bought it.
Q You bought it before you were admitted to citizenship, did you?
A Yes sir.

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Mabel F. Maxwell, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she correctly recorded the supplemental testimony in this case, and that the above and foregoing is a true and complete transcript of her stenographic notes thereof.

Mabel F. Maxwell

Subscribed and sworn to before me
this 3rd day of August, 1903.

Samuel Foreman,
Notary Public.

MFM

CR. 845

C 2571

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
AUG 7 1903

CHAIRMAN

Cherokee D 371

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

In the matter of the application of Mary L. Strickland for the enrollment of herself and minor children, Roy, Ellene and John R. Strickland, as citizens by blood of the Cherokee Nation:

D E C I S I O N

The record in this case shows that on September 20, 1900, Mary L. Strickland appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and minor children, Roy, Ellene and John R. Strickland, as citizens by blood of the Cherokee Nation. On December 1, 1902, the Commission rendered a decision in the matter of said application and forwarded the same to the Department of the Interior for approval and, on February 28, 1903, the Department approved said decision. Under date of April 27, 1903, the Department returned the record in said case to the Commission for readjudication, and further proceedings in the matter of said application were had at Tahlequah, Indian Territory, on July 31, 1903.

The evidence shows that the applicant, Mary L. Strickland, and her minor child, Roy Strickland, were admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes on the first day of September, 1896, and no appeal was taken therefrom. The applicants, Ellene and John R. Strickland, have been born since the date of said admission, as appears from birth affidavits filed with and made a part of the record herein.

The evidence further shows that none of the applicants herein ever removed to and in good faith settled in the Cherokee Nation.

Paragraph Nine, Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is, therefore, the opinion of this Commission that, under the law above quoted, the application for the enrollment of Mary L. Strickland, Ellene Strickland and John R. Strickland, as citizens by blood of the Cherokee Nation, should be denied, and it

Astp

is so ordered; and it is further the opinion of this Commission, following the decision of the Department in the cases of Ora M. Camp et al. (I.T.D. 1418-1903) and Hubert Henry et al. (I.T.D. 5560-1903), that Roy Strickland should be enrolled as a citizen by blood of the Cherokee Nation if he removes to and permanently locates in the Cherokee Nation prior to the approval of the Cherokee rolls by the Department of the Interior, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

Commissioner.

(SIGNED) W. E. Stanley
Commissioner.

Muskogee, Indian Territory,

this

I dissent from the decision above written and hold that under the doctrine laid down in the Yangain case the applicant and her three children should be enrolled as Cherokees by blood.

(SIGNED) C. R. Breckinridge
Commissioner.

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee I. T. October 27th 1903.

In the matter of the application for the enrollment of Mary L. Strickland et al. Cherokee D 371; Transferred to C R 845.

Brief of the Cherokee Nation.

The testimony in this case shows that the principal applicant Mary L. Strickland is thrty-three years of age; that she was admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes in 1896; that she has three children; that all of the applicants are residents of the State of Georgia and that they never removed to and located in the Cherokee Nation and that their names appear upon no roll made by the Cherokee Nation.

The Cherokee Nation contends that these applicants were very properly rejected by the Commission on December 1st 1902, under paragraph nine of section twenty-one of the act of Congress of June 28th 1898 which provides "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

Mary L Strickland was born in the state of Georgia; she was married in the state of Georgia all three of her children were born in the state of Georgia two of them born in Georgia since she was admitted to citizenship by the Commission in 1896 and she has never removed to and in good faith settled in the Cherokee Nation. She admitted on September 20 1900 that had been in the Cherokee Nation at that time about twoo weeks for the purpose of appearing before the Commission to enroll. Our contention is that it was the intention of the Cherokee People when their organic law was formed to compell the recognized citizens to permanently reside within the limits of the Cherokee nation and it was unquestionably the intention of Congress to require all persons who wanted to partake of the benefits of Cherokee citizenship and to share in a division of the lands and moneys belenging to the Cherokee Nation should remove to and in good faith permanently locate within the Cherokee Nation.

We contend that the admission of the applicant by the Commission to the Five Civilized Tribes gave them no higher or better right than if they had been admitted by the Cherokee National Council or Commission on citizenship, or Cherokee tribunal having jurisdiction. Now then if the above section of the Curtis Bill does not apply to these applicants we can not see how it can be applied to any applicant because it says that no person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship; This is certainly one of the cases that comes within the purview of that paragraph of Section twenty-one of the Curtis Act; It is admitted that these people have never removed to and permanently and in good faith located or settled in the Cherokee Nation; and it is admitted of course that they have never in good faith settled in the Cherokee Nation because they have never settledin the Cherokee Nation at all.

There is really no comparison whatever between this case and the Clement G. Clark case as contended by counsel for applicants, unless it be a comparison with the case of Clement G. Clark himself who was rejected by the Honorable Secretary of the Interior, but there is certainly no similarity between this case and that of Clarks wife who was formerly Martha Cobb. Clarks wife was born a citizen of the Cherokee Nation; her name appears upon all of the Cherokee rolls since her birth including the authentificated roll of 1880 whereas Mary L. Strickland was born in the State of Georgia and her name appears upon no Cherokee roll whatever; Clarks wife continuously and at all times retained improvements and other personal property within the Cherokee Nation whereas Mary L. Strickland has neverlived in the Cherokee Nation and has never perfected her citizenship in the Cherokee Nation by removing to and in good faith settling in the nation and hence she has never perfected her citizenship she has none to forfeit., We therefore contend that the reasoning in the Fourgain case and the Clark case in no way affect the case at bar unless it be that it is like the case of Clark himself who never removed to the Cherokee Nation nor settled therein and who was rejected by the Commission and the Department.

We contend therefore that it is error for counsel to say first that Mary L. Strickland ever removed to the Cherokee Nation because the testi-

mony does not show it and it is error second for him to say that she has never removed all of her effects from the Cherokee Nation because she has never as yet removed them to it; it is error for him to contend that she never became a citizen of any other government because she never forfeited her citizenship in the state of Georgia; fourth it is error for him to argue that it was herintention to ~~xxxxxx~~ retain her citizenship in the Cherokee Nation for the testimony shows that she was admitted in 1896 and seven years has elapsed and she has continued to reside in the State of Georgia where she exercised the rights of citizenship she has heretofore enjoyed. It is error for him to argue a comparison between the case at bar and the Yeargain and Clark cases because there is no similarity except as to Clement G. Clark himself who was rejected.

The application for the enrollment of these people should be denied.

Respectfully,

W W Hastings JCC

Attorney for the Cherokee Nation.

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee I. T. November 12th 1903.

CD 321

In the matter of the application for the enrollment of Mary L. Strickland et al as citizens of the Cherokee Nation.

Protest of the Cherokee Nation.

~~Protest of the Cherokee Nation~~

The Cherokee Nation agrees with the Commission in its opinion that the application for the enrollment of Mary L. Strickland, Milene Strickland and John R. Strickland as citizens by blood of the Cherokee Nation should be denied but we can not agree with the Commission in its opinion that Roy Strickland should be enrolled as a citizen by blood of the Cherokee Nation if he removes to and permanently locates in the Cherokee Nation prior to the approval of the Cherokee rolls by the Department of the Interior.

Reference is made to the argument filed in behalf of the Cherokee Nation in the case of Hubert Henry et al (IT. D. 5560-1903).

Under the provisions of the act of Congress approved July 1st 1902 and ratified by the Cherokee people August 7 1902 the Cherokee rolls were to be made as of date September 1st 1902; If Roy Strickland had not removed to and permanently located in the Cherokee nation prior to that time, it seems to us that no act of his after that date could entitle him to enrollment; a child born after that dates acquires no rights of citizenship in the Cherokee nation. Roy Strickland was either a citizen or not a citizen on that date; we see nothing in the law applicable to this case that would exempt him. Reference is made to the last paragraph of the opinion of Assistant Attorney General Van DeVanter of date June 8 1901 approved by the Honorable Acting Secretary of the Interior June 8 1901.

Respectfully,

W. W. Hastings JR

Attorney for the Cherokee nation.

IN THE DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes.

----oOo----

In re Application of Mary L.)
Strickland, et al., for En- : Cherokee R-845.
rollment as Cherokee citizens.)

----oOo----

BRIEF ON BEHALF OF APPLICANTS.

The record in this cause shows that this family removed to the Cherokee Nation in 1895 for the purpose of making it their permanent home. The husband of Mrs. Strickland is a Doctor and proposed locating at the town of Adair. Mrs. Strickland purchased a farm of three hundred and sixty acres east of Adair with the improvements thereon and has continued to own the same from that time until the present. During a good part of this time she owned one town lot. She testifies that she purchased this farm for the purpose of making it a permanent home for herself and children, and every bit of evidence in the case from first to last shows that in 1895 these parties came to the Nation for the purpose of making it their permanent home. This purpose, in so far as Mrs. Strickland has any weight, has continued to the present time.

In 1898 application was made to the Dawes Commission for admission as citizens and all were admitted except Dr. Strickland who was rejected. This rejection was the cause of his leaving the Cherokee Nation and returning to his former home in Georgia and the evidence is positive that he commanded his wife to go with him. While she went as was her duty as a wife, her own purpose is clear from the disposition of her sole and separate estate. That consisted of the farm and town lot in the Territory and these she continued to hold.

This case is very similar to the Clement G. Clarke case

decided March 17, 1903, by the Secretary of the Interior, the opinion having been written in the Assistant Attorney-General's Office. Clarke married Martha Cobb, a citizen by blood of the Cherokee Nation, whose name appears on the 1880 roll. Immediately after their marriage Clarke and his wife removed to Connecticut and have been residing in that State ever since. Mr. Clarke is a clergyman, has pastoral charge of a church in Connecticut and there the family has ever since resided and appears to have no definite purpose of returning; however, Mrs. Clarke "has improvements upon and maintains possession and cultivation of a tract of the national land".

The Clarke case was decided under the rulings in the Yeargains case and the Secretary held that while Mr. Clarke had forfeited whatever rights he may have had in the Nation, that Mrs. Clarke had not done so because she had continued to maintain and own this farm with the improvements thereon.

Mrs. Strickland has continued since her admission as a citizen of the Nation to maintain an improved farm of three hundred and sixty acres and has done no act in any way which forfeits her rights. She has, like Mrs. Clarke, lived at the place designated by her husband.

Under the rulings in the Yeargains case Mrs. Strickland and her children should be enrolled because it is clear that she removed to and in good faith settled in the Nation expecting to make it her permanent home. The evidence is clear that had not her husband been rejected the whole family would have continued to reside in the Cherokee Nation. Paragraph 9 of Section 21 of the Curtis Act is, therefore, fully satisfied.

We have, therefore, but to consider whether or not she has done some act which, under Cherokee Law, forfeits her rights. The only law relating to the subject is the provision of the Constitution discussed in the Yeargains cases, under which four things must concur before she loses her rights: first, she must remove;

second, she must take with her all of her effects; third, she must become a citizen of another government; and fourth, do all of these with the intention of abandoning her rights.

Of these four things she has done but one and has done this not of her own free will, but because of the commands of her husband. She has removed no part of her effects from the Cherokee Nation; on the contrary, has left all of her effects, including the improvements on this farm in the Nation. She has not become a citizen of another government so as to deprive her of her rights in the Cherokee Nation. Her marriage as a Cherokee by blood to a citizen of a state makes her a citizen of the United States, it is true, under an act of Congress; but that very act of Congress provides that she shall not thereby lose her rights to tribal property. In so far as the Cherokee Constitution is inconsistent with this act of Congress, the Cherokee Constitution is repealed and the act of Congress prevails. -- Opinion of S. V. Trouufit, First Assistant Attorney, approved July 8, 1903, by the Acting Secretary in regard to Section 2 of Article I, Constitution of Cherokee Nation, and paragraphs 1 and 9, Section 21 of Curtis Act. The language here used is as follows:

> "The premise that the legislative power of Congress over the affairs of Indian Tribes and Nations is plenary to repeal and change their laws and constitutions is so well established as to be beyond further controversy."

The decision would seem to settle the question as to whether or not her becoming a citizen of the United States, or of the State of Georgia, has any effect upon her rights to tribal property.

The intention (made so prominent in the Yeargains cases) of these applicants is uncontradicted. It is testified to positively by Mrs. Strickland and is supported by all of the physical facts in the record. Her intention from first to last was to secure and maintain her rights as a citizen of the Cherokee Nation. That she has succeeded is beyond a reasonable doubt.

C O N C L U S I O N .

In conclusion we, therefore, respectfully submit:

First. That in 1895 Mrs. Strickland with her family removed to and in good faith settled in the Cherokee Nation in which she claims citizenship.

Second. That having properly been admitted to citizenship by the Commission she has done no act which deprives her of that right, because:

A. She has not removed all of her effects or any of them from the Cherokee Nation.

B. She has not become a citizen of any other government in such a way as to deprive her of her tribal rights of property.

C. Her intention throughout has been to retain her citizenship in the Cherokee Nation.

Third. Under the Yeargains cases, the Clarke case and the opinion of Judge Proudfit above cited, it is clear that Mrs. Strickland and her minor children are entitled to enrollment as Cherokee citizens.

Respectfully submitted,

Harry G. Kimball
Dan Harry White
Attorneys for Applicants.

Nowata I.T.
Feby 26th 1902

Friend Cale

There is a Negro Woman here that will make a good Witness against John Tucker Sarah Hinds and Betsey Reed her husband is George Tucker she says that she will Tell the Truth just when they Come she says that none of them Come in the right time she says they all Come from Mound City Kansas when they Come here. I think she will make a good Witness against Jane Claggett as they all Come from the same Town I think she will make the best witness you can get

she says none of them had
no right here for they all come
to late when ever you want
her she will come down
she is a slate Negro and dont
claim any right here.

Cole I wish you would see
after Bill Powell and his family
they are all white but they say
that the Communion put them
on the yellow card his wife
Name is Nunnie Powell they
are both inter married Whites

How will Mary L. Strickland Cole
come out she lives in Georgia
and never did live here Guss
Rogers moved here but his wife
made him move back to Georgia
she would not live here

CP 5/11

Captain Rogers says that his wife bossed him and made him moove back to Georgia Guess did not want to moove back but his wife made him

Please let me know about these parties

Yours respectfully
John T. Coody

COMMISSIONERS.
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-571.

Muskogee, Indian Territory, December 5, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 1, 1902, rejecting the application of Mary L. Strickland for the enrollment of herself and her three minor children, Ray, Eliene and John E. Strickland, as citizens by blood of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enc. E-41.

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-371.

Muskogee, Indian territory, March 12, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 1, 1902, rejecting the application of Mary L. Strickland for the enrollment of herself and her three minor children, Roy, Ellene and John R. Strickland, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on February 28, 1903.

Respectfully,

Chairman.

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee R. 848

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES

Tahlequah, Indian Territory, May 13, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby notified that on April 27 the Secretary of the Interior granted the motion to reopen for the taking of further testimony the application of Mary L. Strickland for the enrollment of herself and family as citizens of the Cherokee Nation.

The principal applicant has this day been notified that any further testimony she may have to introduce tending to establish the rights of herself and family to enrollment as citizens of the Cherokee nation can be presented before the Cherokee Land Office of this Commission at Tahlequah, Indian Territory, on or before June 6, 1903.

Evidence is particularly required as to the residence of the applicant in this case.

Respectfully,

C. R. Breckinridge.

Commissioner in Charge
Cherokee Land Office.

MH

HARRY G. KIMBALL.
WILLIAM HENRY WHITE.

KIMBALL & WHITE,
Attorneys at Law,
COLUMBIAN BUILDING, 416 5TH ST., N. W.,
Washington, D. C.

August 29, 1903.

W. W. Hastings, Esq.,

Muscogee, Ind. Ter.

Dear Sir:

We enclose herewith carbon copy of brief on behalf of applicants in re application of Mary L. Struckland, et al., for enrollment as citizens of the Cherokee Nation. Please acknowledge receipt of the same , and oblige,

Yours very truly,

Kimball & White

MR1

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-371

Muskogee, Indian Territory, October 30, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated October 22, 1903, denying the application for the enrollment of Mary L., Ellene and John R. Strickland as citizens by blood of the Cherokee Nation, and granting the application for the enrollment of Roy Strickland as a citizen by blood of said Nation, on condition that he remove thereto prior to the closing of the Cherokee rolls by the Secretary of the Interior.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicants. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. D-36

Refer in reply to the following:
Land. 76624/1903.

Department of the Interior,
Office of Indian Affairs,

Washington, January 30, 1904.

The Honorable

The Secretary of the Interior.

Sir:-

Referring to Department letter of April 27, 1903, (ITD 2034, 4037) there is enclosed herewith a report from the Commission to the Five Civilized Tribes, dated November 23, 1903, transmitting the record relative to the application of Mary L. Strickland and others for enrollmenr as citizens of the Cherokee Nation.

Mary L. Strickland applied for the enrollment of herself and her minor children, Roy, Ellene and John R. Strickland as citizens by blood.

The record in this case shows that Mary L. Strickland and her minor child, Roy Strickland were admitted to citizenship by the Commission to the Five Civilized Tribes September 1, 1896 in accordance with the provisions of the act of June 10, 1896, and that no appeal was taken from the Commission's decision.

Ellene and John R. Strickland were born since the date of the admission of their mother and are identified by birth affidavits.

A Majority of the Commission to the Five Civilized Tribes under date of October 22, 1903, held that Mary L. Strickland, Ellene

and John R. Strickland were not entitled to enrollment, but that under the decision of the Department in the Ora M. Camp, Hubert Henry and other cases, Roy Strickland is entitled to enrollment provided he removes to and permanently locates in the Cherokee Nation prior to the approval of the final rolls of that nation by the Department.

Commissioner Breckinridge dissents from this opinion and holds that under the decision of the Department in the Yeargain case, all the applicants should be enrolled as citizens by blood.

The record in this case shows that Mary L. Strickland resided in the Cherokee Nation August, September and October 1896. In October 1896 she returned to Georgia and did not go back to the Cherokee Nation until 1900.

The testimony, it appears to this office, conclusively shows that she stayed in Georgia during the four years from 1896 to 1900 in consideration of the wishes of her husband and that she returned to the nation as soon as practicable under the circumstances

She testified that she remained in Georgia at the command of her husband; that she was required to do so and that he would not let her stay in the Cherokee Nation.

The record shows that she owned a farm 360 acres in the Cherokee Nation at the time she was admitted; that it was improved, fenced and had a house on it and that she still owns this farm. She appears to have purchased it September 20, 1895. This farm, she

testified was bought with "her own money, made by my own hands; I bought it for myself and children; it belongs to them and me; my husband has nothing to do with it. I have never abandoned it and still own it. I bought it in good faith, expecting to live in the Indian Territory when I bought it."

Her testimony also shows that she has intended in good faith to return to and permanently reside in the Cherokee Nation.

The attorneys for the applicants and the attorney for the Cherokee Nation filed briefs and arguments in the case, and the attorney for the Cherokee Nation protests against the enrollment of Roy Strickland as a citizen of that Nation.

From the record in this case the office believes that the position of Commissioner Breckinridge is correct and that under the Department's holding in the Yeargain and Clarke cases, these applicants are entitled to enrollment as citizens by blood of the Cherokee Nation; it therefore respectfully recommends that the position taken by Commissioner Breckinridge be approved.

It is not believed that the doctrine laid down by the Assistant Attorney General in his opinion of December 29, 1903, relative to the right of Allie Williams to enrollment as a Cherokee citizen is applicable to this case, as the evidence clearly shows that Mary L. Strickland did not of her own volition return to and reside in the State of Georgia, but she did so at the direction of her husband.

Very respectfully,
A. C. Tonner,
Acting Commissioner.

GAW/LM
3 inclosures.

COPY SVP FRW JRW WOP ITD 934-1904.

DEPARTMENT OF THE INTERIOR,

OFFICE OF THE ASSISTANT ATTORNEY GENERAL.

WASHINGTON. MARCH 12, 1904.

The Secretary of the Interior.

Sir:

I received, by reference, February 25, 1904, the record in the application of Mary L. Strickland and her three children for enrollment as citizens by blood of the Cherokee Nation, with request for my opinion thereon. It appears that Mrs. Strickland is of one-eighth Cherokee blood, born in Georgia, about 1867, where she married a white man, citizen of Georgia, and where all her children were born. She was first in the Cherokee Nation in 1895, and September 20th bought, with funds earned by herself, the possessory right to a farm of three hundred and sixty acres near Nowata, how long she remained is not shown. In 1896, she, with her husband and child went again to the territory, and they all applied to the Commission to the Five Civilized Tribes for enrollment, the husband claiming to be a citizen by marriage. They stayed from about August 1st to October 31st. The Commission admitted her and her son Roy, and denied her husband's application. The family returned to Georgia, and Mrs. Strickland was in the nation briefly in 1899 and was not again there until about September 6, 1900, when she went to testify

before the Commission. She remained about a month. She was again before the Commission to testify July 31, 1903.

She testifies that her husband in 1898 intended to remain and practice his profession, medicine, at Adair, if admitted to citizenship; that each time she came to the nation it was with intent to remain and make it her home; and that it was only by the command and compulsine of her husband that she returned to Georgia. She has a house on her farm in which she has a bed, stove and tub. She has kept possession of the farm, fenced, improved and cultivated it by a tenant upon a rent, under license granted to her as a Cherokee by the Cherokee authorities. She bought a lot in Prior Creek in 1895, to which the Cherokee authorities gave her a deed, and sold the lot in 1900. She also bought two other lots in Nowata, on which she has not completed the payments and to which ~~k~~ she has no deed. She has been living in Georgia with her husband, though she desired to remain in the nation but her husband would not do it, and she had to do what he said. The farm was purchased with the proceeds of labor of her own hands, in good faith expecting to live in the territory when she bought it. She regards it as the home of herself and children, and has never abandoned it. In a letter to the Commission, which she asks to be made part of her testimony, she says

> I do not reside here (in the nation) because my husband being the head of the house I have to live where he does or quit him, which I don't think you would advise me to do, and which I would not for the whole Cherokee Nation. All property that I own personally is in the Cherokee Nation, the home that I claim for my very own and my children.

Upon these facts the Commission, with one dissent, denied enrollment of Mrs. Strickland and her two children born after her enrollment in 1896, and ordered enrollment of her son, Roy, conditioned on his removal to and permanent location in the Cherokee Nation prior to final approval of the rolls by the Secretary of the Interior. The dissenting member was of opinion that Mrs. Strickland and her three children should be enrolled. The Acting Commissioner of Indian Affairs concurred with the dissenting opinion. The nation protests against enrollment of Roy Strickland. All the applicants insist upon their right to enrollment. Both parties have filed briefs.

The dissenting opinion, and argument of the applicants rest upon opinion in the case of Joseph D. Yeargain, March 16, 1903, and departmental decision of the same date in Martha Cobb Clarke (I.T.D. 1139 -1903, and 1370-1903). Neither of these cases is a precedent for the present one, as both Yeargain and Mrs. Clarke were born and lived to mature age in the Cherokee Nation, and the question was, whether the nationality and allegiance to which they were born had been lost -- whether they had become expatriated. The question here is the reverse -- viz: whether one not born to Cherokee citizenship, though eligible by blood to admission to such citizenship, had become one of the Cherokee Nation and was thereby entitled to enrollment.

Mrs. Strickland, never having been a member of the Nation, but being one of those Cherokees who had in the migrations become separated from the nation, she was, as pointed out in the Yeargain's

case, with the intent and purpose of the provision in the act of June 28, 1898 (30 Stats., 495, 503), that:

> No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship.

The domicile of the wife is presumably that of her husband. But the present case does not stand on a presumption. Mrs. Strickland is perfectly candid and admits she has always made her home in Georgia, and says she would not quit her husband "for the whole Cherokee Nation." While this is a virtue highly commendable, the result is that as the husband's domicile is in Georgia so is hers. She never has "in good faith settles in the nation" -- that is, to remain there and co-operate in its social progress. She had a strong desire to do so, but did not effectuate the desire by willing to do so. She yielded that desire to comply with the stronger one to cling to her husband. Her husband had no intent in 1896 to remain in the nation, only conditioned that he was admitted to citizenship. As soon as that was denied, he returned to Georgia and remained there. Commendably she clung to him, and substantially said: "Thy people shall be my people" -- that is, she elected and determined to be an American citizen of Georgia, and not to be a citizen of the Cherokee Nation because her husband was not. This was not a coercion or duress, but was in law a free election, though she was constrained to it by the bond of her affection for her husband.

The children born in Georgia of the marriage of a free man and free woman, were born to the father's allegiance, and not to that

of the Cherokee Nation. Ex parte Reynolds (5 Dill., U. S. 492). Though eligible by blood on th ir mother's side, under Cherokee law, to Cherokee citizenship, they did not identify themselves with the nation and so had not become Cherokee citizens. I am therefore of opinion that the protest of the Cherokee Nation gainst enrollment of Roy Strickland should be sustained and the judgment of the Commission for his enrollment should be reversed, and that as to the other applicants the order of the Commission should be affirmed.

Very respectfully,

Frank L. Campbell

Assistant Attorney General.

Approved: March 12, 1904.

E. A. Hitchcock

Secretary.

D.C. 9023-1904. JP FHE LRS I.T.D. 934-1904
2160-

DEPARTMENT OF THE INTERIOR,

WASHINGTON. MARCH 17, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

Referring to your letter of November 23, 1903, transmitting the record in the matter of the application of Mary L. Strickland, et al., for enrollment as Cherokee citizens, there is inclosed herewith a copy of an opinion of March 12, 1904, by the Assistant Attorney General, in the matter, which was approved on the same date by the Secretary.

In accordance with said opinion, your decision of October 22, 1903, adverse to Mary L. Strickland, Ellene Strickland and John R. Strickland, is hereby affirmed, and is reversed, so far as Roy Strickland is concerned.

Respectfully,

Signed Thos Ryan

Acting Secretary.

1 inclosure.

(1)- Page-1-

Cumming Ga. Nov. 2. 19 4.

To the Hon.E.A.Hitchcock.
Secretary of the Interior, Washington D.C.

Dear Sir:-

As directed by yours of the 29th.of Oct. I ask that you reviw the case of Mary L. Strickland, et all, for enrollment as a Cherokee citizens by blood,

First the enrollingcommission in 1900. erred in not placeing my name et all on a permanent card, after seeing that it was on the rollplaced there by the Dawe Commisios in 1896. and a letter of citizenship was given to me by the Dawe Com. in 1896, said letter I handed to the enrolling committee, in 1900.

In the year 1896 I gave to the authorities at Tahlequah ,Ind.Ter. a written notice that I was going to apply to the Dawe Com. for enrollment, also served on them a copy of the evidence that I would place before the Com. when I ask for enrollment, after the cherokee authorities had said notice and the evidence in their hands for 30 days, made no objections to my name et all being placed on the cherokee roll by the Dawe Com. in 1896.

As my name was placed on the roll in 1896.by due process of law through the Dawe Com. I had as good a right in Ter. as thos that were on the roll of 1880 , As I was put on the roll by the Dawes Comm. themselves ,ther could be no charge of fraud, As Congress sent the Dawes Commission back to the Cherokee Ter. in 1900 to purge the rolls of thos names that was put there by fraud and bribery, it would not be reasonable to think that the Dawes Commision in 1896. was gilty of puting names on the Cherokee roll through fraud,

From the above you can clearly see that I did not use any fraud in geting my name put on the roll in 1896. Now I wish to call your attention to the fact,that the reason that Congress ordered the roll of 1900 made,was that the Cherkee lawyers said to the indian committee in Washington , that there was a lot om names on the Cherokee rolls at Tahlequah,that was put there by the Cherokees them-selves through fraud, They did not say that the Dawes Commission in 1896 did any fradulant enrolling, they certainly could not claim fraud in my case, as they made no fightor objections to the Commission placing my name on the 1896 roll,

I hold that my name et all should have been put on a permanant card by the Commission in 1900 ,as ther was no question of fraud rased against my enrollment in 1896.

The following is a clipping from your instructions to the commission in 1900 (No one whose name has ben rejected by the Dawes Commission in 1896, sall be allowed to apply to said commission for enrollment in 1900.) that was to sa by you that where the Dawes ComM. rejected name in 1896. the desision was final, now des it not stand to reason that if the desision of the Dawes Comm. in 1896 against an applicant for enrollment was final ,then does it not stand to reason that a descision by the sam- commission in 1896. in favor of an applicant should be considired final, . an espicially when the person that was enrolled, was enrolled by the commission them selves, and not through the political council at Tahlequah, and mearly passed upon by the commission ,or rather copied from the rolls at Tahlequah,

I claim that my case was adjudicated by the Dawes commission in 1896, and as ther was no objectiong rased at that time againsg my name being put on the roll by said ~~commission~~ said Cherokes attorneys, that the said enrolling commission in in the year 1900, should have put my name et all on a stait card along with the names of those that was on the 1880 roll,

Now in the year 1896 ,the Dawes Comm. rejected the name of my husband, but put my name et all on the roll, well if the Dawes Commission had judgement enough to say that the name of my husband should not go on the rolls, then did not they have judgement enough to say that my name and children should go on said roll,

the curtis act was to purg the roll, and in my case ther was no fraud charged ,therefore that act could not apply to that part of the roll that was made by the Dawes Commission in 1896, but the Curtis act applied to those name that was put on the roll at Tahlequah by fraud from the year 1881 , to the year 1896.

The following quotation is from a private letter that I have frome the enrolling commission dated Sept .26,Vinita,Ind.T. t wit (it appears that you and your son,Roy, were admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilised Tribes in 1896. As no appeal was taken by the Nation the desision of said Commission is final as to the citizenship of your self and son,) Now if the commission it self state to me that my case was desided in 1896 final,desisive, or in other words setled, then they could not do other wise than put me and my children on the strait card,

I have never seen any act of the U.S.Comgress that said,that after an persons name was placed on the indian roll by the Dawes Commission that said person could not go in and out of said Ter. at ther pleasure.

I removed to and setled in good faith in the Cherokee Ter. in the year 1895. as you will see by going over the ~~evidence~~ additional evidence given by me the last of July 1903. before the Commission at Tahlequah, I bought my farm in Ter. in the year 1895. and I still hold said farm and run it , I showed the Commission the bill of sails to said farm, I never have removed my effects from the Ter. since the year 1895

My husband has two sets of children, and after he was rejected by the Commission ,he bought property in the States, [redacted] I go back and fourth from the states to the Ter. My husband and I hold seperat property, he and his first or in other words he and his children by his first wife ,hold ther property in the state of Ga. while I and his children by me hold our property in Ter.

I know of know law ,saying that I sall not hold seperate from that of my husband,

Con C.R. Breckinridge of the Dawes Commission wrote to me and said that he desented from the desision of the other members of the Commission, and cited me to the Yeargain case,

I sight you also to you desision the the case of Mrs Josie A.Hall, and her two daughters, you told the Commission not to ask but one questio, to wit, (if they had improvements in Ter. and leaving improvements in Ter. when they left, said Ter.

Now if you will look at the evidence that I gave to the Commission at Tahlequah Ind,Ter. on the last of July 1903. you will see that in said evidence that I have held inprovements in the Cherokee Ter. from the year 1895, up to this present time, On that day I showed to the Commission my bill of sales to my farm, and as them to attach said bill of sales to my papers as evidence that I held a home in the Ind. Ter, they meerly looked at the bill of sales,an handid them back to me and would not file them as evidence, I also showed them that I had town property in boath Nowata,and Pryor Creek,

Now Mr.Secretary as the evidence that I gave at Tahlequah in July 1903. was taken down in short hand, of course I could not tell whether the above about my having property in Ter. was put down or left out, The evidence given by me in person to the Commission in July 1903. should show that I held improvements in Ter, said improvements costing me over $ 600.00 , Now I cite you to your decission in the case of the two dayghters of Mrs. Josie A. Hall, names Blanch hall Morrison, and jessie Mae Hall Swan. Thes two ladies live in the state of N.Y. with their husbands ,but have improvements, in Ter. they wer put on the roll by you, also sight you to yor decission in the Yeargain case,. Also sight you to the case of William H., Rogers, whos home or head-quarters for the last 18 years was in Ronoke Va. yet he held improvements in Ter. he was put on the roll in 1900, without a word,

Now in this I have not given to you any new evidenc,but called you attention to the evidence that I gave to the Commission, and cited you to your rulings in other cases which was the same as mine,

Now I ask that you give to me and my three miner children the benefit Roy,Ellene.& John R.Strickland. the benefit of you desision,

Respectfully
Mary L. Strickland.

Cumming Ga, Nov. 3. 1904.

Mr. W. T. Hastings attorney for the

for the Cherokee Nation.

Sir:-

I have this day ask the ~~Attorney General~~ Secratary of the Interior to review my case for inrollment ~~to~~ as ~~a~~ a cherokee citizen, together with my three miner children, point out the following errors that I consider that the Department made in passing upon my case,

First that my case was adjudicated by the Commission in 1896. and that their desision was final, both for and against those that was passed upon, therfor my name et al, should have been placed upon a strait card in 1896. as the desisin of the Commwa in my favor in 1896,

second, The Commission errored in not puting my name et al on the roll, after seeing in the evidence that I gave to them in July 1893. that I had removed to and setled in good faith in in Ter. in the year 1893. and that I had not ~~#~~ removed my effect from Ter. but kept up my improvements in Ter. said improvements costing me over 600.

Resp't

Mary L. Strickland

Omnc16

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

Muskogee, Indian Territory, January 12, 1905.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear sir:

The Commission is in receipt of departmental letter of January 4, 1905, advising the Commission that the motion for review of departmental decision of March 17, 1904, denying the enrollment of Mary L. Strickland and her minor children as citizens by blood of the Cherokee Nation, was denied by the Department on December 28, 1904.

Respectfully,

Chairman.

IN THE MATTER OF THE APPLICATION OF

Mary L. Strickland et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 20, 1900
B. Mem° of application - " 20, 1900
C. Letter from applicant relative to her application
D. Post affidavit - Elone Strickland
E. " " John R. "
F. Commissioners acceptance of both affidavit - R. L. W.
G. Notice of final consideration

H. Order closing testimony Feb. 25, 195

R. L. W. - R

Cher D 372

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 20, 1900.

In the matter of the application of Dave Linn for enrollment of his wife as a citizen of the Cherokee Nation, said Linn being duly sworn by Commissioner Breckinridge, testified as follows:

Q What is your name? A Dave Linn.
Q Your age? A 20.
Q Your postoffice? A Cherokee City.
Q What district do you live in? A Delaware.
Q Who do you want to have put on the rolls? A My wife.
Q Is she a Cherokee by blood? A Yes.
Q What proportion of Cherokee blood does she claim? A Quarter.
Q What is her name? A Lucinda.
Q How old is she? A 18.
Q When did you marry her? A About 11 months ago.
Q Have you certificate of marriage? A Yes.

The applicant presents a certificate of marriage to his wife showing that on the 30th day of November, 1899, at Southwest City, McDonald County, Missouri, they were married by the Rev. W. M. Thompson. This is filed herewith.

Q How long has your wife lived in the Cherokee Nation? A All her life.
Q Born here? A Yes.
Q Your wife's maiden name was Beamer? A Yes.
Q What is her father's name? A Alex Beamer.
Q Cherokee or white man? A Cherokee? A
Q Dead or alive? A Dead.
Q How long since he died? A I don't know.
Q What is her mother's name? A Nan.
Q Cherokee or white woman? A White woman.
Q Dead or alive? A Alive.
Q Has your wife lived with you ever since her marriage? A Yes.

Applicant on '96 roll, page 436, number 236 as Beamer.

Q What was your wife doing in Missouri when you married her-- was she living there? A No sir.
Q She just lived on the Cherokee side? A Yes.

The applicant applies for the enrollment of his wife. He shows by the marriage license and certificate filed herewith that they were married in '99?. His wife is identified on the roll of '96. She is too young to be upon the roll of '80, and her mother cannot be definitely located upon that roll. To await fuller and more satisfactory evidence in regard to the applicant's wife her name will for the present be put upon a doubtful card.

LUCINDA LINN, being sworn, testified:
Q Were you Lucinda Beamer before you married your husband? A Yes.
Q When did your father die? A 6 years ago.
Q What was his given name? A Alex Beamer.
Q Were you born in the Cherokee Nation? A Yes.
Q Lived here all your life? A Yes.
Q What proportion of Cherokee blood has your mother? A She was a white woman.
Q What proportion of Cherokee blood has your father? A He was half-breed.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 24th day of Sept. 1900.

Com'r.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
TAHLEQUAH, I.T., DECEMBER 3rd, 1900.

SUPPLEMENTAL TESTIMONY IN THE MATTER OF Lucinda R. Mann, Card "D", #372:

Lucinda R. Mann, being sworn and examined by Commissioner, T. B. Needles, testified as follows:

Q What is your full name? A Lucinda R. Mann.
Q How old are you? A Eighteen.
Q What is your Postoffice? A Cherokee City.
Q What district do you live in? A Going Snake.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q What is your father's name? A Alexander Beamer.
Q Is he living? A No sir, he is dead.
Q What is your mother's name? A Nancy Beamer.
Q Is she living? A Yes sir.
Q Whom do you want to enroll? A Just myself.
Q Are you married? A Yes sir.
Q What is your husband's name? A David Mann.
Q When were you married? What year? A In 1899.
Q What district did your father and mother live in, do you know?
A No sir, I do not: They can tell you.
Q Who can? A Mother.
Q Where is she? A Sitting right there.
(1880 Roll, Page 411, #209, Alice Beamer, G. Snake District)

David Mann, being sworn and examined by Commissioner, T. B. Needles, testified as follows:
Q What is your name? A David Mann.
Q What is your age? A Fifty one.
Q What is your Postoffice? A Oaks.
Q Do you know Alexander Beamer? A Yes sir.
Q Was he a Cherokee ~~and~~ Indian by blood? A Yes sir.
Q Do you know his wife, Nancy? A Yes sir.
Q Do you know whether they were married or not? A Yes sir, I saw them married.
Q Do you know whether they lived together as man and wife until his death? A I never heard of their parting.

Applicant recalled:
Lucinda R. Mann's name is found on the census roll of 1896, as described in the original testimony taken before in her case. She is duly identified as the child of Nancy and Alexander Beamer: Her father is identified as "Alice Beamer" on the authenticated roll of 1880: Satisfactory proof of marriage between the said Alexander and Nancy Beamer is made. She makes satisfactory proof as to her testimony; consequently, she will be duly listed for enrollment as a Cherokee citizen by blood, this testimony to go with Card "D" #372, as supplemental testimony to testimony taken before, it being satisfactory as to her citizenship.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R. R. Crawford

Subscribed and sworn to before me this 3rd day of December, 1900.

T. B. Needles

COMMISSIONER.

D. 372.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Lucinda Kirk for the enrollment of herself and child as citizens of the Cherokee Nation.

The applicant was notified by registered letter February 6th that her case would be taken up by the Commission for final consideration on the 25th day of February, 1902, and that she could on said day appear before the Commission either in person or by attorney, when an opportunity would be given her to introduce any further testimony affecting her case. Receipt has been acknowledged of the Commission's letter. The applicant called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

10372

Cherokee-B-372. 8817

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Dave Linn for the enrollment of his wife, Lucinda B. Linn, as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 20, 1900, Dave Linn appeared before the Commission at Vinita, Indian Territory, and then and there made personal application for the enrollment of his wife, Lucinda B. Linn, as a citizen by blood of the Cherokee Nation. Further testimony was submitted in this case December 3, 1900. It appears from the evidence in support of this application that Lucinda B. Linn is the daughter of Alexander Beamer who is identified on the 1880 Census Roll of the Cherokee Nation, page 411, No. 209. She is too young to be upon that roll. Lucinda B. Linn is identified on the 1896 Census Roll of the Cherokee Nation, page 438, No. 236, under her maiden name. She was lawfully married to Dave Linn on November 20, 1898. December 5, 1901, there was filed with the Commission a duly executed affidavit from which it appears that John W. Linn was born July 3, 1901, that he is the child of Dave and Lucinda B. Linn and that he was living at the date of the execution of the affidavit.

The law applicable in this case is found in Par. 1, Sec. 1, act of Congress approved June 28, 1898.

It is therefore the opinion of this Commission that Lucinda B. Linn and John W. Linn are legally entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such

should be granted and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Kelsey, Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory.

This MAY 20 1902

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

D. 572.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation,

Sir:

Enclosed herewith please find a copy of a decision of the Commission rendered May 20th, in the matter of the application of Lucinda B. Linn et al for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above persons as citizens of the Cherokee Nation. If you fail to file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-572.

D.372

IN THE MATTER OF THE APPLICATION OF

Lucinda Linn

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 20, 1900
B. Memo of testimony " 20, 1900
C. Marriage Certificate
D. Additional testimony December 3, 1900
E. Birth affidavit John W Linn
Notice of final consideration

F. Order closing testimony, Feb. 25, 1902

Cher D 373

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 20, 1900.

In the matter of the application of William Tucker for enrollment of himself, wife and one child, as citizens of the Cherokee Nation, said Tucker being sworn by Commissioner Breckinridge, testified as follows:

Q What is your name? A William Tucker.
Q Your age? A 33.
Q Your postoffice? A Spavinaw.
Q What district do you live in? A Saline.
Q Whom do you want to have put on the roll? A Myself and one child.
Q Apply for yourself as a Cherokee? A Yes.
Q What proportion of Cherokee blood do you claim? A 3/4.
Q How long have you lived in the Cherokee Nation? All my life.
Q What district did you live in in '80? A Saline.
Q What district in '96? A Saline.
Q What is your wife's name? A Nellie.
Q What was her name when you married her? A Lane.
Q Was she a Cherokee or white woman? A White woman.
Q Is she living now? A Yes.
Q When did you marry her? A '99.
Q How old is she now? A About 19.
Q Were you ever married before? A No sir.
Q Was she ever married before? A No sir.
Q Have you got any marriage certificate? A No sir, not with me.
Q Have you got it at home? A No sir, did not give me any certificate
Q Who married you? A preacher by the name of J. J. Johnson.
Q Is he about here now? A No sir.
Q Is there anybody here who was at your wedding? A No sir.
Q Is there anybody here who knows that you married this woman? A Yes, my sister-in-law.
Q What is her name? A Victoria Gallion.

VICTORIA GALLION, being sworn, testified as follows:
Q What is your name? A Victoria Gallion.
Q How old are you? A 23.
Q Wat is your postoffice? A Spavinaw.
Q How long have you lived in the Cherokee Nation? A About 10 years.
Q Are you the sister-in-law of this man? A Yes.
Q Did your sister marry him? A Yes.
Q Was your sister ever married before? A No sir.
Q Were they married regularly by a preacher? A Yes.
Q Did you ever hear of his having any wife before? A No sir.
Q They are not living together now? A Yes.
Q When were they married? A Last year sometime.
Q Early part of the year or middle part of the year? A Along in the fall of last year.

APPLICANT CONT'D:
Applicant on '80 roll, page 671, number 1199;
On '96 roll, page 1025, number 1321.
Q What is the name of your child? A George C., 6 months old.

By J. L. BAUGH, Cherokee attorney:
Q About what time in the year '99 were you married-- was it in the spring or summer? A It was in the fall of '99.
Q What time in the fall of '99-- early fall or late? A Late in the fall.
Q About December? A Somewhere about there.

The applicant is identified on the rolls of '80 and '96 as a native Cherokee. He has lived in the Cherokee Nation all his life and will be listed now for enrollment as a Cherokee by blood.

He testifies that he was married to his wife, a white woman, in the fall or in December, 1899, and that the child for whom he makes application was born on the 22nd day of February of the present year. When he supplies proper certificate of birth of this child, it will be listed upon a doubtful card for further consideration of the Commission.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B McDonald

Subscribed and sworn to before me this 24th day of September, 1900.

C Bunnin

Commissioner.

0373

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

ACTING CHAIRMAN

D. 575.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 26, 1902.

In the matter of the application of William Tucker for the enrollment of his child, George C. Tucker, as a citizen of the Cherokee Nation.

The applicant's father, William Tucker, was notified by registered letter February 6, 1902, that the application of his child would be takenup by the Commission for final consideration on the 25th day of February, 1902, that he could on said date appear and introduce any further testimony affecting said application. He was especially requested to supply the Commission with a certified copy of the marriage license and certificate of himself and his wife, Nellie Tucker. Also an affidavit as to the birth of his son, George C. Tucker. The applicant has been called three times and fails to respond, and the case is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Commissioner.

Cher
Supp'l to D 373

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., February 18, 1903.

In the matter of the application for the enrollment of GEORGE C. TUCKER and LILLIE MABLE TUCKER, as citizens by blood of the Cherokee Nation:

WILLIAM TUCKER, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q State your name ? A William Tucker.
Q How old are you ? A Thirty six in March.
Q What is your post office ? A It was Spavinaw then.
Q What is it now ? A Coffeyville.
Q Are you a Cherokee by blood ? A Yes sir.
Q Is your name on the roll of 1880 ? A Yes sir.
Q How long have you lived in the Cherokee Nation ?
A Thirty six years.
Q All your life, have you ? A Yes sir.
Q What district were you living in in 1880 ? A Saline.
Q Now, have you some children ? A Yes sir.
Q What are their names ? A George C. and Lillie Mable.
Q How old are those children ? A One of them will be three years old the 22nd of February, George C., is three years old the 22nd day of February, and Lillie will be a year old the 2nd day of April.
Q Did you make application for the enrollment of these children ?
A It was made up there at Lenapah.
Q Who was their mother ? A Nellie Vaudie Tucker.
Q Is she a white woman ? A Yes sir.
Q Were you married to her ? A Yes sir.
Q When were you married to her ? A A little over three years.
Q Is she living now ? A Yes sir.
Q You are living with her ? A Yes sir.
Q Have you been living with her right along from the time you married her ? A Yes sir.
Q Are these two children, are they children by your wife Nellie ?
A Yes sir.
Q Are these children both living ? A Yes sir.

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell

Subscribed and sworn to before me this March 20, 1903.

Samuel Foreman.

Notary Public.

Cherokee D. 373.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of George C. Tucker and Lillie Mable Tucker as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 20, 1900, William Tucker appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of his minor child, George C. Tucker, as a citizen by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on February 12, 1903. A birth affidavit for Lillie Mable Tucker was filed with this Commission on August 21, 1902. She therefore becomes an applicant for enrollment. The application also included William Tucker for the enrollment of himself as a citizen by blood of the Cherokee Nation but he is not embraced in this decision, his name being upon the partial roll of Cherokee citizens by blood approved by the Secretary of the Interior on November 14, 1902, at number 7764.

The evidence shows that William Tucker, a Cherokee citizen by blood, and identified on the Cherokee authenticated roll of 1880, was married in 1889 to one Nellie Lane, a white woman. As a result of that marriage the minor applicants herein were born. Said applicants, George C. and Lillie Mable Tucker, are identified by birth affidavits made a part of the record herein.

The evidence further shows that William Tucker, the father of the applicants, has lived in the Cherokee Nation all his life. It is considered that the applicants herein have resided in the Cherokee Nation since birth.

It is, therefore, the opinion of this Commission that George C. Tucker and Lillie Mable Tucker should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of

section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby
Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

(SIGNED). W. A. Stanley.
Commissioner.

Dated at Muskogee, I. T.,
this JUN 1 - 1903

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ALL MAIL TO THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D-373.

Muskogee, Indian Territory, July 9, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 1, 1903, granting the application of William Tucker for the enrollment of his two minor children, George C. and Lillie Mable Tucker, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Commissioner in Charge.

Enc. H-23.

IN THE MATTER OF THE APPLICATION OF

George W. Tucker

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 20, 1900
B. Memo of application " 20, 1900
C. Notice of final consideration
D. Order closing testimony, Feb. 25, 1902

Transferred to Cherokee 10260

Enc 6172
1461

See Jacket No 31234

Cher D 374

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I T., SEPTEMBER 20, 1900.

In the matter of the application of Melton M. Caulk for the enrollment of himself, wife and children as citizens of the Cherokee Nation, said Caulk, being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Melton M. Caulk.
Q What is your age? A 48.
Q Your post office address? A Chelsea.
Q What district? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood or inter-marriage? A By blood.
Q What degree of blood do you claim? A One-eighth.
Q For whom do you apply? A Myself, wife and children.
Q Do you apply for yourself? A Yes, sir.
Q Is your name on the authenticated roll of 1880? A No, sir.
Q By what right do you claim citizenship? A By admission by the Dawes Commission.
Q What is the name of your wife? A Malinda J. Caulk.
Q What is the name of the children that you apply for? A Arthur F.
Q How old is he? A 20.
Q What is the name of the next one? A Rhoda; 17 years old.
Q The name of the next one? A Maud.
Q How old is Maud? A Nine years old.

Upon examination of the records of the Dawes Commission there is found in case #5316 Court case #257, that Melton Cauld, Walter F. and Maud Caulk, were admitted to citizenship by decision of the United States Court; petition having been filed September 18, 1896.

Q The name of your wife does not appear in the certificate of admission you have, certifying that you were admitted to citizenship?
A No, sir.
Q When were you married? A 1870.
Q What was your wife's name? A McMillan, was her maiden name.
Q What is her first name? A Malinda J.
Q Is she living? A Yes, sir.
Q Have you proof of marriage? A Yes, sir.
Q Certificate of marriage? A No, sir, I was married in Missouri and could not get any license at that time.

W. W. Hastings, Representtative of the Cherokee Nation:

Q You were married in McDonald County, Missour? A Yes, sir.
Q Where were you living at the time you were married? A In Missouri
Q How long did you live there? A Since 1855.
Q In McDonald County, Missouri? A Yes, sir.
Q And lived ~~all of the time~~ up to the time you were married in McDonalk County, Missouri? A Yes, sir, except two years when I was a boy.
Q Were you born in 1855 and married in 1870? A I was born in 1848.
Q But from 1855 until 1870 you lived in McDonald County, Missouri?
A Yes, sir.
Q You were not recognized as a citizen of the Cherokee Nation at ~~at~~ the time you were married? A No, sir.
Q You never were recognized until 1896? A No, sir.

Com'r Needles:

Q Where do you live now? A Three miles above Chelsea.
Q How long have you lived there? A 12 years.
Q These children living there with you? A Yes, sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A I was here when the Census rolls were taken in 1896.

Melton V. Caulk--2.

Com'r Needles:

The name of Melton V. Caulk and his wife, Malinda J., and his children for whom he applies do not appearupon any or the rolls of the Cherokee Nation, but upon examination of the records of the Commission to the Five Civilized Tribes, it is found that the said Melton V. Caulk and his children, Arther V. Rhoda and Maud were admitted as citizens upon an application that was filed before them on September 5, 1896; Dawes Commission case #5315, and Court case #209. An appeal was taken to the United States Court, Northern District, by the Cherokee Nation, and the Judgment of the Dawes Commission was sustained, thereby becoming final; consequently the said Melton V. Caulk and his children Arther V., Rhoda and Maud, will be listed for enrollment as Cherokee citizens by blood.

He applies for the enrollment of his wife, Malinda J., and he presents no certificate of admission to citizenship. Her name does not appear in the judgment admitting himself and his children. He avers that he was married to her in the State of Missouri, in the year 1870, but does not present any certificate of marriage. Final judgment as to the enrollment of the said Malinda J., his wife, will be suspended and her name will be placed upon a doubtful card. And he will be required to present satisfactory certificate of marriage in order to complete the enrollment.

James V. Childers, being sworn, testified as follows:

Q What is your name? A James V. Childers.
Q What is your age? A 52.
Q What is your post office address? A Albert.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q Do you know Melton V. Caulk? A Yes, sir.
Q Do you know Malinda Caulk? A Yes, sir.
Q What relation do they bear to one another? A Man and wife.
Q How do you know they are man and wife? A I heard the Parson pronounce them so.
Q You were at the marriage? A Yes, sir.
Q In what State? A State of Missouri.
Q What year was that in? A 1870.
Q They have lived together as man and wife since that time? A Yes sir.
Q Have you known they continuously? A Yes, sir.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof

J. O. Rosson

Subscribed and sworn to before me this [illegible] day of September, 1900.

Commissioner.

a ~~3140~~

N 374

D. 374.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., February 25, 1902.

In the matter of the application of Malinda J. Caulk for the enrollment of herself as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 6th that her case would be taken up for final consideration by the Commission on the 25th day of February, 1902, and that she could on said day appear before the Commission and introduce any further testimony affecting her case. Receipt has been acknowledged of the Commission's letter. The applicant called three times and fails to respond either in person or by attorney, and the case is ordered closed and reported to the Commission for a decision based upon the evidence now of record.

Commissioner.

E 10374

Department of the Interior,

Commission to the Five Civilized Tribes.

Muskogee, I. T., April 9th, 1908.

Cherokee No. D 874.

In the matter of the application of Matilda J. Caulk for enrollment as a citizen of the Cherokee Nation by Intermarriage.

For [illegible] reasons perhaps no brief, which we have not [illegible] could be necessary in that field by counsel for applicant in this case; [illegible] brief in this case shows that the [illegible] of the applicant herein, Mrs. Caulk, is [illegible] from his [illegible] a [illegible] Cherokee citizen by blood and has been duly enrolled as such. [illegible] was married to the [illegible] in June 1870 whereas the testimony shows that [illegible] Caulk [illegible] was never admitted as a citizen of the Cherokee Nation until after she was admitted by the [illegible] Commission in 1896. There is not a word in the record except that of his own and the other witness [illegible] Childers to his residence in Cherokee but Caulk admits [illegible] that he was a citizen of Missouri where he only was a citizen until after his marriage in 1870 when he was married in Missouri in that state and [illegible] Cherokee Nation [illegible] for a [illegible] of Missouri before he removed to the Cherokee Nation [illegible] [illegible] in.

Prior to the [illegible] [illegible] citizens of [illegible] [illegible] under a [illegible] for half a [illegible] to show [illegible] a citizen of the Cherokee Nation.

He specifically applied for himself and his four children in 1896 for enrollment and they were admitted but he made no application for his wife which shows that at the time realized at that time that she had no lawful right to be enrolled as an intermarried citizen of the Cherokee Nation.

They weremarried in the state of Missouri when he was a whit oman and it doesnt appear how she could acquire any rights by such a marriage. Section 659 of the Compiled Laws of the Cherokee Nation provides: That every white man, ~~xx~~ otherwise, complying with the Cherokee Laws, who marries a Cherokee, Delaware or Shawnee Indian Woman, citizens of the Cherokee Nation he may become a citizen of the Cherokee Nation. But you will notice his wife in addition to being a Cherokee Delaware or Shawnee must be a citizen of the Nation. Now should this section be interpreted to apply to women as well as men your attention is invited to the fact that she did notmarry a citizen of the Cherokee Nation when she married Milton M. Caulk in the state of Missouri in the year 1870 .

Again the applicant Malinda J. Caulk could acquire no rights by intermarriage in the year 1896 none could be conferredupon her by the Dawes Commission at that time, they were powerless to do it because of the act of the National Council approved December 16th 1895 which has heretofore been upheld by the Commission and by the Secretary of the Interior affirming the decision of the Commission.

It is not conceded by the Cherokee Nation that if ~~Malinda J.~~ Milton M. Caulk was admitted prior to December 16th 1895 that it would carry with it the admission of his wife but we do not think that this question is involved in this case. Your attention is invited, however, to the fact that no white woman who had previously intermarried with a man of Cherokee blood has ever been admitted as a citizen by intermarriage of the Cherokee Nation by any Cherokee Court or the National Council. The records show that some of them appliedand your attention is invited to one particular case being that of Gilbert S. Thompson who specifically applied for his wife Josephine when he applied for the other members of his family when he applied to the Cherokee citizenship court in 1893 and while the other membersof his family were admitted his wife was not admitted at that time Our contention is that a white woman must have married a Cherokee citizen by blood or a Delaware or Shawnee who was a citizen of the Cherokee Nation at the time of the marriage. This marriage must have taken place prior to December 16th 1895.

The Cherokee Nation contends that the Commission is without jurisdiction to receive, consider or make any record whatever of this case because

the name of Malinda J. Caulk doesnot appear upon any roll heretofore made by the Cherokee Nation nor was she ever admitted, nor was she married to a citizen of the Cherokee Nation prior to December 16th 1895 and it seems to us that it comes within the act of Congress of December 31st 1900.

Respectfully submitted,

C.W. Hastings

Attorney for the Cherokee Nation.

R.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, October 6th, 1902.

In the matter of the application of Malinda J. Caulk for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation.

Supplemental to D-374.

Appearances:
Melton M. Caulk for Applicant.
J. C. Starr for Cherokee Nation.

MELTON M. CAULK, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name, please? A. Melton M. Caulk.
Q. What is your post office? A. Chelsea.
Q. What is your age at this time? A. 54 years old.
Q. What is your wife's name? A. Malinda J. Caulk.
Q. You are a citizen by blood? A. Yes, sir.
Q. Your wife a citizen by blood? A. No, sir.
Q. Claim by intermarriage? A. Yes, sir.
Q. What is your wife's age at this time? A. 56 last April.
Q. Is she living at this time? A. Yes, sir.
Q. When were you and she married? A. We were married in '70.
Q. Where were you married? A. Missouri.
Q. Have you and your wife Malinda J. Caulk lived together all the time since your marriage up to the present time as husband and wife?
A. Yes, sir.
Q. Were you ever married prior to your marriage to her?
A. No, sir.
Q. Was she ever married prior to her marriage to you?
A. No, sir.
Q. You are her first husband, she is your first wife?
A. Yes, sir.
Q. She has never married any other man except you?
A. No, sir.
Q. Were you living together on the first of September, 1902, as husband and wife? A. Yes, sir.
Q. How long have you lived in the Cherokee Nation? A. 14 years.
Q. Your wife, has she lived in the Cherokee Nation all the time for the last 14 years? A. Yes, sir.

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Jesse O. Carr, being first duly sworn, states that as stenographer to the Commissionto the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notesthereof.

Jesse O. Carr

Subscribed and sworn to before me this 4th day of November, 1902.

B. E. Jones
Notary Public.

D 374

Enr #238

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Malinda J. Caulk as a citizen by intermarriage of the Cherokee Nation.

DECISION.

The record in this case shows that on September 29, 1900, Melton M. Caulk appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment, among others, of his wife, Malinda J. Caulk, as a citizen by intermarriage of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 6, 1902. The other parties to the application are differently classified and are not embraced in this decision.

The evidence shows that the said Malinda J. Caulk was lawfully married on March 10, 1870 to Melton M. Caulk, who was admitted to citizenship in the Cherokee Nation by the Commission to the Five Civilized Tribes under the Act of Congress of June 10, 1896, (29 Stats., 321), which decision was affirmed upon appeal to the United States Court in Indian Territory for the Northern District, on December 14, 1897. The Cherokee Supreme Court in the cases of Cherokee Nation vs. Nancy Rogers and Melissa Dawson vs. W. A. Dawson held that a white woman married to a Cherokee Indian at the time of his admission to citizenship acquires thereby the rights of Cherokee citizenship.

The evidence further shows that the said Malinda J. Caulk has lived with her said husband in the Cherokee Nation continuously for fourteen years up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that Malinda J. Caulk should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.

Acting Chairman.

T. B. Needles

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee I. T. December 18th 1902.

In the matter of the application of Malinda J. Caulk for enrollment as a citizen of the Cherokee Nation by intermarriage.

Cherokee D 374.

Protest of the Cherokee Nation,

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission rendered in this case and asks that the same be forwarded to the Honorable Secretary of the Interior for review .

In addition thereto the attention of the Honorable Secretary of the Interior is called to section 26, of the act of Congress entitled: " An Act to provide for the allotment of the lands of the Cherokee Nation, for the disposition of townsites therein and for other purposes." Approved July 1st 1902 and ratified by the Cherokee People August 7th 1902 where in it is provided that " No white person, who has intermarried with a Cherokee citizen since the 16th day of December 1895 shall be entitled to enrollment or to participate in the distribution of the tribal property of the Cherokee Nation."

Now there is no contention that the applicant was the wife of a Cherokee citizen on or before the 16th day of December 1895 and we contend that this case is nota case similar to those who have heretofore been passed upon by the Department wherein it has been held that the admission of the husband admits the wife because the admission of the husband subsequent to December 16th 1895 could confer no rights upon the wife, she not being entitled to any under the laws of the Cherokee Nation.
At the date of her husbands admission by the court, if he had married his present wife he would have conferred no rights upon her whereas in the case of Nancy A. Rogers as well as the Malissa Dawson case frequently referred to as having been decided by the Supreme Court of the Cherokee Nation, if they had remarried immediately upon their admission they would have conferred rights upon their white wives. Not so now. We contend therefore that the husband of the applicant was admitted too late under Cherokee law to confer any right upon his wife and that she should there fore be refused enrollment.

Respectfully submitted,

W W Hastings Jr Cd

Attorney for the Cherokee Nation.

Cherokee D 374.

Before the Honorable Commission to the Five Civilized Tribes.

In the matter of the Enrollment
of Malinda J.Caulk.

Brief for Applicant.

This is the application of Malinda J.Caulk to be enrolled as an adopted citizen of the Cherokee Nation by this Honorable Commission for the reason that prior to the passage of the act of the Cherokee National Council in the month of December 1895 cutting off the rights of intermarried citizens the applicant was lawfully married to one Milton M.Caulk who was at the time of the marriage and has been from his birth up to the present time a citizen by blood of the Cherokee Nation,and has been duly enrolled as such citizen by this Honorable Commission.

The true merit of this application cannot,perhaps,be fully understood,at any rate ~~they~~ it will be better understood by an examination of the record of Rhoda Caulk et.als.,before this Honorable Commission,under the Act of Congress,approv-

ed June 10,1896. From that record it will appear that Rhoda Caulk was brought from the Old Nation to the New by the United States when she was a little girl; that she was a Cherokee by blood;that she grew to womanhood and was lawfully married in the Cherokee Nation; that she and her husband were citizens of the Nation; that Milton M.Caulk,the husband of the present applicant,was one of the children of that marriage; that he was born and raised as a citizen of the Nation and has always been a citizen thereof and lives in said Nation. Rhoda Caulk and her children,who applied with her,and those they had married and their children,did not ask to be re- admitted or admitted to citizenship,but, relying upon the facts,they asked that they be enrolled as citizens.

By some inadvertance,-whether of the attorney or some one else,or the belief on the part of Milton J.Caulk that his enrollment carried with it the right of his wife to be enrolled,-the name of Malinda J.Caulk did not appear in that application,and so we are now confronted with the question ,should she now be enrolled ?

That her husband,Milton J.Caulk,has always,from his birth up to the present time,been a Cherokee Citizen by blood,and has been duly enrolled as such there can be no question; that the applicant was lawfully married to him in the year 1870 is now proven byond a doubt by his testimony and that of another person who was present at the time the marriage took place and by the duly certified copy of the record of the marriage which are in the records of this case.

Upon these facts,what is the law that ought to govern and control this application ?

It is submitted that this is a case where full respect should be given to what the Cherokees themselves have said

in their Constition and Laws and in the interpretation put upon them by their own Supreme Court.

For many years it has been the policy of the Cherokee Nation to draw a marked distinction between the case of an intermarriage between an Indian man, a member of the tribe, and a white woman, not a member of the tribe, and the intermarriage between a white man, not a member of the tribe, and an Indian woman, a member of the tribe. This policy is shown by the laws the Nation has enacted.

That an Indian man might do such a thing as to take unto himself a white woman for a wife is evidenced by the provision made in Section 5, Article III, of the Constitution of 1839, for the children of such a marriage. This article was amended in 1866, partly owing to the treaty of that year entered into between the United States and the Cherokee Nation, and it was provided:

> " All native born Cherokees, all Indians, and whites legally members of the Nation by adoption, x x x x x x x xx and their descendants, who reside within the limits of the Cherokee Nation, shall be taken, and deemed to be, citizens of the Cherokee Nation."
>
> Sec. 5, Amendments to Art. III, Cher. Const.

As early at least as 1848 the Cherokee Nation began legislating upon the subject of intermarriage of white persons with members of the tribe and the laws upon that subject are compiled, under authority of the Council, in 1868. By these laws it is clearly shown that the policy of the Nation was to throw many restrictions around " the Sqaw Man " the white man who would marry an Indian maiden, but, the Indian man who would marry a white woman had only to lawfully marry her. After providing all the steps that must be taken by a white man when he would become an adopted citizen, this very act clearly express the idea that white woman may become adopted citizens for in one of the paragraphs

it is said;

" That any white citizen of the Cherokee Nation by marriage."

If it should be undertaken to be said that the word " a citizen"as here used refers to the former part of the statute which has in it the regulations regulating the intermarriage of white men with Indian women it is completely answered by the language contained in the very next paragraph where it says;

" That should any white man or woman become a citizen of the Cherokee Nation by marriage."

Laws Cher.Nat. 1868,pp.104,105.

The proof shows that the applicant was married in 1870. She married a citizen by blood of the Cherokee Nation,an Indian,when these laws were in full force.

The Supreme Court of the Cherokee Nation,during its existence,had this question before it,at least once,and that court determined that an Indian man,a member of the tribe, who desired to marry a white woman,not a member of the tribe, did not have to attempt to comply with the law on the subject of the intermarriage of non-citizens,but,that the white woman who married an Indian man became by virtue of such marriage an adopted citizen of the Cherokee Nation,and as such she was entitled to all the privileges,immunities and rights of any adopted citizen of the Cherokee Nation. Such,as we learn upon enquiry,has been the universal practice of the Nation,through all its officers.

It is claimed that the applicant comes within the authority conferred upon this Honorable Commission by the Act of Congress,approved June 28,1898,commonly called " The Curtis Act." That act,after specifying certain rolls and specifying various classes,says;

" With such intermarried white persons as may be entitled to citizenship under Cherokee laws."

Respectfully submitted.

George B. Denison
Attorney for applicant

Cherokee D 374.

Before the Commission to the
Five Civilized Tribes.

In the Matter of the
Enrollment of
Malinda J. Caulk.

Brief for Applicant.

George B. Denison,
Attorney for Applicant.

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.

J. C. STARR, SEC.

OFFICE OF

ATTORNEYS FOR CHEROKEE NATION

BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number: F. D. C. D. 374.

Muskogee, I. T., Feb. 26, 1902.

Geo. B. Denison, Esq.,
Vinita, I. T.

Dear Sir:

We hereby acknowledge receipt of copy of Your brief in the matter of the application of Malinda J. Calk, wife of Milton M. Calk, for enrollment as a citizen of the Cherokee Nation.

Yours truly,

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-374.

MUSKOGEE, I.T. THE COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Melton M. Caulk for the enrollment of his wife, Malinda J. Caulk, as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-238.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 374.

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, December 23, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated December 10, 1902, granting the application of Melton M.Caulk for the enrollment of his wife, Malinda J. Caulk, as a citizen by intermarriage of the Cherokee Nation, a copy of which decision was furnished you on December 15, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

(C O P Y)

Land
76807-1902.

D E P A R T M E N T O F T H E I N T E R I O R,

OFFICE OF INDIAN AFFAIRS,

Washington, February 21, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith the report of the Acting Chairman of the Commission, dated December 23, 1902, forwarding the record relative to the application of Milton M. Caulk for the enrollment of his wife Melinda J. Caulk as an intermarried citizen of the Cherokee Nation.

December 10, 1902, the Commission held that Melinda J. Caulk was entitled to enrollment as an intermarried citizen of the Cherokee Nation. The Cherokee Nation protests against the Commission's decision and takes the position that although the applicant and her husband had married prior to December 16, 1895, the applicant's husband was not a recognized citizen of the Cherokee Nation on that date.

The record in this case shows that Melinda J. Caulk was lawfully married March 10, 1870 to Milton M. Caulk who was admitted to citizenship by the Commission to the Five Civilized tribes under the provisions of the Act of June 10, 1896, which decision was affirmed by the United States Court for the northern district of Indian Territory, December 14, 1897.

Melinda J. Caulk and her husband have resided in the Cherokee Nation for 14 years prior to the date of the application for her enrollment. In connection herewith, the attention of the Department is respectfully invited to Department letter of February 14, 1903 (I.T.D.1214) in the case of Ella N. Cass case, and in view of the foregoing and the Department's holding in that case, and considering that the husband of the applicant was subsequent to his marriage to Melinda J. Caulk declared to be a citizen by blood of the Cherokee Nation, the office believes that the Commission's decision is correct and recommends its approval.

Very respectfully,

(Signed) A. C. TONNER
Acting Commissioner.

G.A.W.(E)

(C O P Y)

D.C.53180-1906. Y.P.

DEPARTMENT OF THE INTERIOR, FHE.

WASHINGTON.

I.T.D. 1930-1903. November 30, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

February 21, 1903, the Indian Office submitted the papers in the case involving the application for the enrolment of Melinda J. Caulk as a citizen by intermarriage of the Cherokee Nation, and recommended that the decision of the Commission to the Five Civilized Tribes in favor of the applicant be concurred in. A copy of its letter is inclosed.

It is shown that the applicant was married March 10, 1876, in Missouri, to Milton M. Caulk, who was "admitted" to citizenship by the Commission to the Five Civilized Tribes under the provisions of the act of June 10, 1896 (29 Stat., 321), which decision was affirmed by the United States Court for the Northern District for the Indian Territory December 14, 1897.

In view of the decision of the Supreme Court of the United States, dated November 5, 1906, in the cases of Daniel Red Bird et al., vs. the United States, Nos.125, 126, 127 and 128, appealed from the Court of Claims, the decision of the Commission is reversed.

The papers have been returned to the Indian Office.

Respectfully,

Through the Commissioner of Indian Affairs. (Signed) Thos. Ryan, First Assistant Secretary.

1 inc.and 2 for Ind.of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D. 374.

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

Muskogee, Indian Territory, December 15, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application for the enrollment of Malinda J. Caulk, as a citizen by intermarriage of the Cherokee Nation, was reversed by the Secretary of the Interior, November 30, 1906, and her application denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-51
LMC

D374

IN THE MATTER OF THE APPLICATION OF

Malinda J. Basile

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 20. 1900
B. Mem. of application " 20. 1900
C. Notice of final consideration
D. Brief for applicant
E. Order closing testimony Feb. 25, 1902

OCT 12 1907

See jacket No 3140.

Cher D 375

DEPARTMENT OF THE INTERIOR/

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 29th, 1900.

IN THE MATTER OF THE APPLICATION OF JOHN WESLEY PURCELL FOR THE ENROLLMENT OF HIMSELF HIS WIFE AND CHILDREN AS CHEROKEE CITIZENS.

The said John Wesley Purcell, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John Wesley Purcell.
Q What is your age? A Thirty-five.
Q What is your post office address? A Big Cabin, Indian Territory.
Q What district do you live in? A Delaware.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood? A Yes, sir.
Q What Degree of blood do you claim? A I am a Shawnee.
Q How much Shawnee blood have you got? A To the best of my knowledge one-sixteenth.
Q For whom do you apply for enrollment? A For myself, wife and two children.
Q What is the name of your father? A My father was Robert Wesley Purcell.
Q Is he living? A No, sir; he is dead.
Q What is the name of your mother? A Harriett Ross.
Q Is she living? A (No response)
Q What is the maiden name of your wife? A Mary E. Hollum.
Q Is she a Cherokee by blood? A No, sir; she is white.
Q When did you marry her? A In 1889.
Q Have you got a certificate of marriage? A Yes, sir.
THE COMMISSIONER: The applicant presents a duly authenticated certificate, certifying that he was married to one Emma Hollum, a citizen of the United States on the 27th day of October, the same being recorded May 27th, 1890.
Q What is her age? A She is twenty-eight to the best of my knowledge.
Q Is she living? A Yes, sir.
Q What are the names of your children? A William Raymond.
Q How old is he? A Eight years old.
Q The name of the next one? A Carl B.
Q How old is Carl B.
A He is two.
Q The name of the next one? A That is all.
Q Have you got any proof of birth as to this younger one? A Yes, sir.
THE COMMISSIONER: The applicant presents proof of birth as to his youngest child, Carl, whose name does not appear upon the roll of 1896.
Q These children are alive and living with you at this time? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A About thirty years.
Q Continuously? A Yes, sir.

1880 Roll, page 156, No. 2248, Wesley Purcell, Cowweescoowe District.
1896 Roll, page 510, No. 288, John W. Purcell, Delaware District.
1896 Roll, page 585, No. 428, Mary E. Purcell, Delaware District.
1896 Roll, page 610, No. 289, William R. Purcell, Delaware District.

MR HASTINGS: (Representative of the Cherokee Nation)

The Cherokee Nation desires to put into this case the testimony of David Daugherty taken in the case of Harriett Rose, mother of this applicant, which testimony is to the effect that the applicant's mother was married to his cousin, a Shawnee by blood, and that she subsequently married the applicant's father, who was a white man; and that she, the applicant's mother, was also a white woman. The point is not against him at all. I don't know whether there is anything to it or not; but we expect to hold that an adopted white person cannot marry another white person and adopt her. There cannot be any objection made to him because he is on the roll of 1880.

THE COMMISSIONER: The name of John Wesley Purcell appears upon the authenticated roll of 1880 as well as the Census Roll of 1896. Being duly identified thereby and having made satisfactory proof as to his residence, he will be duly listed for enrollment by this Commission as a Cherokee citizen by blood.

The name of his wife, Mary E. appears upon the Census Roll of 1896. He avers that he was married to her on the 28th day of October 1889, and presents a certificate of marriage to that effect. The name of his child, William R., is also found upon the Census Roll of 1896. He avers that he has one child named Carl, two years old, whose name does not appear upon the roll of 1896 having been born after the same was compiled. He presents satisfactory proof as to its birth. By reason of the protest of the representative of the Cherokee Nation, final judgment as to the enrollment of he said Mary E. Purcell and her two children William R. and Carl B., is suspended, and their names will be placed upon a doubtful card.

The undersigned being sworn, states that as Stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in the above application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Wm S. Wilcox

Subscribed and sworn to before me this 2nd day of October A. D. 1900.

Commissioner.

Supplemental testimony to go with Doubtful Cards Nos. 375 & 348.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 20, 1900.

Supplemental testimony in the matter of the applications of Mary E. Purcell et al. and Harriet Rand for enrollment as citizens of the Cherokee Nation.

J. W. PURCELL, being sworn by Commissioner T. B. Needles, testified as follows:

Examination by W. A. Mallett, Attorney for Applicants:

Q What is your name? A J. W. Purcell.
Q What is your wife's name? A Mary E. Purcell.
Q What is your children's names? A Mary William R. and Carl N.
Q Have you been placed upon the roll by this Commission? A Yes, sir.
Q What tribe did you belong to originally? A Shawnee tribe.
Q What was your mother's name? A My mother's maiden name was; she went by the name of Harriet Tharp.
Q Where is your marriage license to your wife? A They are on file at this office.
Q You were placed upon the roll a few days ago were you? A Yes, sir.

Rachel Rogers being sworn, testified as follows:

Q What is your name? A Rachel Rogers.
Q Where do you live? A Ten miles south of Vinita.
Q Did you know Graham Rogers? A Yes, sir.
Q Of what Indian blood was he? A Full blood.
Q What tribe? A Shawnee.
Q Was he at one time Chief of the Tribe? A Yes, sir.
Q Do you know whether he was Chief of the Shawnee Tribe in 1870, April 9th? A Yes, sir.
Q I hand you a certificate with a name, purporting to be that of your father, Graham Rogers; please examine it and see if that is his name? A (Document shown witness and examined by him.) A Yes, sir.

C. C. Carnatzer, being sworn, testified as follows:

Q What is your name? A C. C. Carnatzer.
Q Where do you live? A Vinita.
Q Do you know S. M. Carnatzer? A Yes, sir.
Q What relation was he to you? A Father.
Q Here is a certificate signed by S. M. Carnatzer, Clerk of Shawnee Council; I will ask you to see that that is your father's signature? (Document shown witness and examined by hi m.) A Yes, sir
Q Do you know whether he was Clerk of the Shawnee Council in 1870, April 9th? A Yes, sir.
Q Is he dead or alive? A Dead.

Commissioner Needles:--Applicant presents the following certificate:

"Council Rooms, Johnson County, Kansas,
April 9th, 1870.

TO ALL TO WHOM IT MAY CONCERN:

This is to certify that R. W. Purcell was legally married to Harriet Dougherty, a member of the Shawnee Tribe of Indians, December 31, 1865, and regularly adopted with all the rights, titles,

privileges and immunities of said Tribe of Indians, from and after the day and date first above written.

IN TESTIMONY WHEREOF we have hereunto affixed our names.
Graham Rogers, Charles Tucker, Chief and Asst. Chief of the Shawnee Tribe of Indians.

(Signatur wi tness)
S. M. Cornatzer, Clerk."

Sallie Gore, being sworn, testified as follows:

Q What is your name? A Sallie Gore.
Q Where do you live A Near Bluejacket
Q Do you know the person named in this certificate, which is copied as Harriet Dougherty? A Yes, sir.
Q What was her maiden name? A Harriet Thorp.
Q How long have you known her? A My earliest recollection about 56 years. I have known her ever since I was about seven or eight years old.
Q You have known her about 48 years? A Yes, sir.
Q What Tribe of Indians do you belong to? A Shawnee
Q Where did you know her? A In Johnson County, Kansas.
Q On what lands was that? A Shawnee Reservation.
Q State what you know about her being a Shawnee Indian? A I never knew anything else of her only as a Shawnee Indian.
Q Do you know whether she took her allottment of lands there as a Shawnee indian?A Yes, sir, she drew lands and shared the same rights and privileges that I did.
Q Is she the mother of Mr. J. W. Purcell, who applies to have his wife and children enrolled in this proceedings? A Yes, SIR.

William Chouteau, beingsworn, testified as follows:

Q What is your name? A William Chouteau.
Q Where do you reside? A Right here at Town.
Q What is your blood? A Shawnee.
Q Do you know a woman called Harriet Dougherty, formerly Harriet Thorp? A I used to know her when she was young.
Q What was she known as when you knew her, was it Thopr; before she was married what was her name at that time? A They called her Thorp.
Q What was her status with the Shawnee Tribe of indians? A Some said she was Shawnee and some said she was white.
Q What can you say as to her rights with the Shawnee Tribe of indians? A She was married to a Shawnee and I suppose she had a right from that. Louis Dougherty was her husband.

Cross-examination by P.C.West, Cherokee Representative:

Q Opinion was about equally devided as to whether she was Shawnee or white? A Some said she was white and some Shawnee.
Re-direct examination by W. A. Mallett, Attorney for Applicants:
Q Where did she live then, where did she reside? A Shawnee Reservation.
Q Did you know whether she drew her land as a Shaw nee? A Yes, sir, I think she did, land and money too; after she married a Shawnee she was adopted, of course.

Harriet Ross, being sworn, testified as follows:

Q What is your name? A Harriet Ross.
Q What was your maiden name? A I went t by the name of Jane Harriet Thorp. They had when I enrolled here, I made a mistake and put my name down Jones. That was my father's name I have been told, but I always went by the name of my step-father. They never knew me by the name of Jones, but I have been told by older people that my father's name was Jones and I do not know why I put it down that way.
Q How did that come about? A Just happen to, they
Q Your mother's husband, what became of him before you were born?
A He was taken away to the Penitentiary and staid there for five years.
Q Were you born in his absence? A Yes, sir.
Q So you are informed? A Yes, sir.
Q Did he return and live with your mother? A Yes, sir.
Q You always went by his name? A Yes, sir.
Q What did you say about giving your name as Jones? A I say that I give me name as Jones instead of Thorp. I should have give it in as Thorp because my name was always put in as Thorp.
Q Are you the mothey of Mr. J. W. Purcell, who asks to have his wife and children enrolled here? A Yes, sir, I am the mother of them.
Q Where have you lived since you remember? A Shawnee race of people.
Q Always? A Always resided with them.
Q You were not enrolled the other day? A No, sir, I think not.

Cross examination by P.C.West, Cherokee Representative:

Q What is your notion about where you were born? A As near as I could learn about it, I was born in Michigan.
Q What part of Michigan? A I do not know anything about that. I was not enough informed this way.
Q You have made that a rule all of your life to inquire about your family history? A I never had any desire to know.
Q You never had any desire to know your own family history?
A I never had any one to ask about it.
Q You did ask about it? A This old gentleman told me about it and I ask him some questions.
Q What did he say? A He said he had always known my mother and knowed my father. He said he knowed my mother was quarter blood Shawnee.
Q Who was this old gentleman that imparted this information? Mr. Pearl, he is dead.
Q He is the only man that ever knew anything about you? A Yes, sir he is the only one.
Q What was the name of the man Jones that you were told was his father? A He never stated his father, he just said Jones. I did not ask him his given name.
Q Who told you Jones was your father? A Mr. Pearce.
Q When did you fall in with Mr. Pearce? A I have known him since him since I was a child.
Q Where did your mother became acquainted with this man Thorp? A I do not know about that.
Q Did you ever hear about where they were married? A Never heard anything about that, she died when I was small.
Q Was Thorp the man that was sent to the Penitentary? A Yes, sir.
Q Where was he sent from th the Penitentary? A There where they lived.
Q In Kansas? A There in Michigan.

Q Had he come back from the Penitentiary when you were old enough to recollect? A I do not recollect anything about it, I was young. I was too small to know anything.

P. N. Smith, being sworn, testified as follows:

Direct examination by W. A. Mallett:
Q What is your name? A P. N. Smith.
Q Where do you reside? A Minita.
Q Here is an affidavit purporting to have been executed by Charles Bluejacket on the 23d day of April, 1887, your name is signed as a witness to his signature; I will ask you if you signed your name there and if Charles Bluejacket executed that affidavit? A Yes, sir.
Q The affidavit is executed before G.W. McKewing, Notary Public. Warren Williams also signs that the witness is true; that is correct? A Yes, sir.
Q Here is an affidavit, Mr. Smith, purporting to have been executed by Theressa Brown. Yourself Warren Williams and Charles Tucke, signing as witnesses to her signature. Said affidavit having been executed before G. W. McKewing, Notary Public, on the 16th day of April, 1887. Did Theressa Brown execute that affidavit as she purports to have done? A Yes, sir.

Harriet Rose, recalled, further testified:

Examination by P. C. West, Cherokee Representative:

Q I want to know which side of the house you claim your Shawnee blood? A My mother's.

Cross Interrogatories by W.A.Mallett, Attorney for Applicants:

Q Did you know a man by thename of Captain Joseph Parks A Yes, sir
Q What relation was he to your mother? A He was her brother.
Q Was he Shawnee Indian? A Yes, sir.
Q How long did you live in Kansas before you came to this country?
A I lived all my life there.
Q From your earliest recollection? A Yes, sir
Q On what reservation? A Johnson County, Kansas.

P. C. West, Cherokee Representative:
Q When did you come to the Indian Territory? A I came when they all came.
Q What do you mean by that? A The whole Tribe of Shawnees.
Q You have been here ever since? A Yes, sir.
Q Is your husband living? A No, sir, dead.
Q When did you marry him? A Six years ago.
Q Was he white man? A Yes, sir, white man.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 22 day of October, 1908.

C M Bruce

COMMISSIONER.

D 375

Cherokee D 548
File In Cherokee D 375

Department of the Interior,
Commission to the Five Civilized Tribes.
Vinita, I. T. September, 20, 1900.

In the matter of the application of Harriett Rose.

In the matter of the application of Charles Purcell.
Additional Testimony.

David Daugherty, being sworn and examined, testified before Commissioner Needles, as follows:

Mr. W. W. Hastings, representative of Cherokee National: Do you know the woman who is on the Shawnee roll as Harriett Purcell and her son Charles Purcell? A I know her, but I don't know the boy at all, I have heard of him is all.

Q Who was Harriett Purcell, and what was her blood? A She is a white woman.

Q State how you know? A It has been tested in our Council, I used to be a member of the Shawnee Council, and it was tried; she is kin to Captain Parks, our Principal Chief of the Shawnee Tribe, but it is on the white blood, Captain Parks is very nearly a white man.

Q Who was Harriett Purcell's first husband? A Lewis Daugherty, he was my cousin.

Q Lewis Daugherty was a Shawnee by blood? A Yes, sir, just the same as I am.

Q And that was the way she became adopted? A That is the way she became adopted into the tribe.

Q Do you know her Purcell husband? A Yes, sir, knew him well.

Q Was he a Shawnee by blood? A No sir, he was a white man.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this 20th of September 1900.

C. R. Breckinridge,
Commissioner.

I, the undersigned, as stenographer to the Commission to the Five Civilized Tribes, being duly sworn, state that the above is a full, true and correct copy of the original transcript on file in this office.

Ella Mulenz

Subscribed and sworn to before me this 1st day of August, 1902.

H. R. Butler
Notary Public.

Ed 375

RECEIVED
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
FILED
AUG 1, 1902

ACTING CHAIRMAN

*gm

Cherokee D 375

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25, 1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of Mary E. Partell for the enrollment of herself and children as Cherokee citizens.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I. T., attorneys for the applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant and her attorneys were notified by registered letter on February 8, 1902 that this case would be taken up for final consideration by the Commission, on the 25th day of February, 1902; receipt has been acknowledged of the Commission's letter, and the applicant this day appears by her attorneys, Mellette & Smith, Vinita, I. T.

The attorneys for the applicant and the representative of the Cherokee Nation present submit this case to the Commission for final consideration and it is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant requests and will be granted 15 days in which to file brief, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

Commissioner.

MDG

Cherokee D-575.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., October 6, 1902.

In the matter of the application of Mary E. Purcell for enrollment as a citizen by intermarriage, and for the enrollment of her children, William R., Carl B. and Milford C. Purcell, as citizens of Shawnee blood of the Cherokee Nation; she being sworn and examined by the Commission, testified as follows:

Q What is your name? A Mary E. Purcell.
Q What is your age at this time? A Thirty-two.
Q Do you know your exact age? A My family record was lost and I don't know my exact age.
Q Who gave your age in when you made your application? A My husband.
Q He gave it in twenty-eight, you think it is thirty-two? A That is my judgment, that is what I think.
Q Are you the same Mary E. Purcell who made application to this Commission as an intermarried citizen on September 30, 1900? A Yes sir.
Q What is your husband's name? A John W. Purcell.
Q Was he a Cherokee by blood? A Yes sir, Shawnee blood.
Q Is he living at this time? A Yes sir.
Q When were you and he married? A We have been married about 13 years.
Q Were you ever married prior to your marriage to him? A No sir.
Q Was he ever married prior to his marriage to you? A No sir.
Q You his first wife and he is your first husband? A Yes sir.
Q Have you and your husband lived together from the time of your marriage up until the present time? A Yes sir.
Q Are you living together now? A Yes sir.
Q Were you living together on the first day of September, 1902, as husband and wife? A Yes sir.
Q How long have you lived in the Cherokee Nation? A Ever since I was a small child.
Q Have you lived in the Cherokee Nation for the last thirteen years? A Yes sir.
Q Are these children, William R., Carl C. and Milford C., your children by your husband? A Yes sir.
Q And are they living at this time? A No sir, my oldest boy is not living, William R. is dead.
Q When did he die? A He died the 25th of this last August, a year ago.
Q Are these other two children living? A Yes sir.
Q Has Carl B. and Milford C. lived in the Cherokee Nation all their lives? A Yes sir.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

R. L. Rothenberger

Subscribed and sworn to before me this 23rd day of October, 1902.

B. E. Jones
Notary Public.

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE APPLICATION OF MARY E. PURCELL, FOR THE ENROLLMENT OF HERSELF AND HER TWO CHILDREN WILLIAM RAYMOND, AND CARL B. AS CHEROKEE CITIZENS. # 375.

BRIEF AND ARGUMENT FOR APPLICANTS.

The testimony in this case shows that Mary E. Purcell, is the wife of John Wesley Purcell, and that the two children William Raymond, and Carl B. are their children. The name of the said John Wesley Purcell is found upon the authenticated roll of citizens of the Cherokee Nation of 1880, and he has been duly listed by this Commission for enrollment.

Under section 22 of the act of Congress known as the Curtis Bill, it appears that the status of these applicants is absolutely fixed and that they are entitled to enrollment beyond question. The first part of that section reads as follows:

"That in making rolls of citizenship of the several tribes as required by law, the Commission to the five civilized tribes is authorized and directed to take the roll of Cherokee citizens of 1880 (not including freedmen) as the only roll intended to be confirmed by this and preceding acts of Congress, and to enroll all persons now living whose names are found on said roll and all descendants borned since the date of said roll to persons whose names are found thereon."

The testimony further shows that the said John Wesley Purcell, was lawfully married to the applicant on the 27th, day Oct. 1889, and certificate of said marriage is filed with the testimony.

This proof of marriage fixes the status of the two children they being lawful descendants of John Wesley Purcell, whose name is found upon the authenticated roll of 1880.

Mary E. Purcell,

The status of the wife is also fixed by her marriage. Her husband being a citizen of the Cherokee Nation. It is a well known principle of law that the nationality of the wife follows that of the husband. The law of the Cherokee Nation provided, until it was repealed in 1895, that any white man who married a cherokee woman according to certain forms prescribed thereby, should become a citizen of the Cherokee Nation. No such requirement was made of white

Mary E. Purcell, et al.

women as it was recognized that if they married Indian men their children would follow them. In Webster, on the law of citizenship, page 27, we find the following:

"The woman changes her nationality absolutely by marriage to a citizen of the United States. She does not enjoy in coverture, any other or different rights, and privileges from those enjoyed by her husband. The rule does not require residence in the United States; a woman who becomes married to a citizen of the United States partakes of the citizenship, with all its rights abroad."

The authority only states the general principle of law governing the citizenship of married women and it does a person by no [illegible] have been made by the Cherokee law to constitute a person a citizen of the Cherokee Nation.

The authority in this case seems to have been also applicable to the case of Harriet Ross, nonfull, No. 148, as some of the testimony in the latter case shows that the name of John Wesley Purcell, the husband and father of these applicants, is to be found upon the roll of the 772 Shawnees, who intermarried to the Cherokee Nation under the treaty between the Shawnees and Cherokees.

The testimony shows continuous residence in the Cherokee Nation [illegible] as referred to in the testimony.

[illegible] submit that the applicants are entitled to [illegible] Cherokee citizens.

Attorney for Applicant.

Cherokee Doubtful
No 375

Mary E Purcell et al

Brief and Argument
Copy

Cherokee D-375.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Mary E. Purcell as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of her three minor children, William R., Carl B. and Milford C. Purcell, as citizens of the Cherokee Nation of Shawnee blood.

DECISION.

The record in this case shows that on September 20,1900, John W. Purcell appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his two minor children, William R. and Carl B.Purcell,as citizens of the Cherokee Nation of Shawnee blood,and for the enrollment of his wife, Mary E. Purcell, as a citizen by intermarriage of the Cherokee Nation. John W.Purcell is differently classified and is not embraced in this decision. Another child, Milford C. Purcell, by name, has been born since the date of this application, and he is now embraced in this decision. Further proceedings in the matter of said application were had at Vinita,Indian Territory,on September 29, 1900, and again at Muskogee, Indian Territory, on October 6, 1902. The testimony of David Daugherty, taken on September 20, 1900, in the matter of the application of Harriett Ross for the enrollment of herself as a citizen of the Cherokee Nation, Cherokee Doubtful Case # 348, is made part of the record in this case.

The evidence in this case shows that Mary E. Purcell, a white woman, was lawfully married on October 27, 1889, to John W. Purcell, a Shawnee Indian, an adopted citizen of the Cherokee Nation, whose name appears upon the Register of Shawnees who removed to the Cherokee Nation, pursuant to the terms of the Cherokee--Shawnee agreement of 1869, and on the Cherokee Authenticated Tribal Roll of 1880. Mary E. Purcell and William R. Purcell are identified on the Cherokee Census Roll of 1896. The other children, Carl B. and Milford C. Purcell, born on February 6, 1898, and December 2, 1900, respectively, are too young to be on any roll, but are duly identified by birth affidavits, made a part of the record herein.

The evidence further shows that Mary E. Purcell has lived with her said husband, John W. Purcell, in the Cherokee Nation continuously from the date of her marriage to him up to and including September 1, 1902. Carl B. and Milford C. Purcell have lived in the Cherokee Nation continuously since birth, and were residents therein on the date of this application. William R. Purcell died on August 25, 1901, as shown by an affidavit of death, made a part of the record herein.

Enc #1 no 9

Cherokee D-375, # 2.

It is, therefore, the opinion of this Commission that Mary E. Purcell should be enrolled as a citizen by intermarriage of the Cherokee Nation, and that Carl B. Purcell and Milford C. Purcell should be enrolled as citizens of the Cherokee Nation of Shawnee blood, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

It is further ordered by this Commission that the application for the enrollment of William R. Purcell as a citizen of the Cherokee Nation should be, and the same is hereby, dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby
Acting Chairman.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-375.

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of John W. Purcell for the enrollment of his wife, Mary E. Purcell, as a citizen by intermarriage, and for the enrollment of his minor children, Carl B. and Milford C. Purcell, as citizens of the Cherokee Nation of Shawnee blood, and dismissing his application for the enrollment of his minor child, William E. Purcell, as a citizen of the Cherokee Nation of Shawnee blood.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-209.

IN THE MATTER OF THE APPLICATION OF

Mary E. Purcell et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

D 911/8972

A. Original testimony - September 20, 1900
B. Memo application " 20, 1900
C. Certified Copy of Marriage Certificate
D. Additional testimony - September 29, 1900
E. Birth affidavit Carl B. Purcell
F. " " - Milford C. Purcell
G. Receipt for testimony

Notice of final consideration
Order closing testimony, Feb. 25, 1902

Brief of evidence

CR 8/0

See Guardian Jacket 3145

Cher D 376

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 20th, 1900.

IN THE MATTER OF THE APPLICATION OF ROBERT HALL FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND ONE CHILD AS CHEROKEE CITIZENS.

The said Robert Hall, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Robert Hall.
Q What is your age? A Twenty-seven.
Q What is your post office address? A Vera.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation?
A Yes, sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A No, sir.
THE COMMISSIONER: Upon examination of the records of the Dawes Commission, I find that in Dawes Commission case No. 5516, Court case No. 259, that one Robert Hall was admitted to Cherokee citizenship, the application being filed September 8th, 1896.
Q Are you the identical Robert Hall mentioned in this certificate? A Yes, sir.
Q For whom do you apply? A For myself, my wife and one child
Q Does your wife appear in this judgment? A No, sir; her name is not there.
Q What is the name of your wife? A Ada Hall.
Q Is she a Cherokee Indian or a white person.
A A White person.
Q When did you marry her? A In 1893.
Q Have you a certificate of marriage? A Yes, sir.
Q Please present it. A Here it is.
THE COMMISSIONER: The applicant presents a marriage license and a marriage certificate certifying that he was married to one Ada Miner, a white person on the 24th day of December, 1893. This paper is filed herewith.
Q What is the name of your child? A Meda Hall.
Q How old is Meda? A Six years old.
Q When was Meda born? A In 1894, October 10th.
Q She was born before you were admitted by the Dawes Commission?
A Yes, sir.
Q Her name does not appear in the judgment does it? A No, sir
Q How long have you lived in the Cherokee Nation? A Twelve years.
Q You have lived here twelve years continuously? A No, sir.
Q Is your wife living? A Yes, sir.
Q Is this child Meda living and livng with you at this time?
A Yes, sir.

Counsel for Applicant: The applicant desires to file, with reference to the admission of his wife, the sworn statement heretofore filed with the Dawes Commission, showing the omission of his wife's name, and his child's name from the original application for citizenship which was filed before the Commission.
MR. HASTINGS: (Representative of the Cherokee Nation) To the

filing of this the Cherokee Nation objects.
(Document offered to be filed by applicant marked exhibit A.-W.S.W)
THE COMMISSIONER: The representatives of the Cherokee Nation object to the filing of these papers, and the Commissioner sustains the objection, and refuses to file the document.

Mr. HASTINGS: (Representative of the Cherokee Nation)
Q Where were you born? A In Missouri; McDonald County
Q How old are you? A Twenty-seven.
Q When did you move to the Cherokee Nation? A I moved here in 1886, I believe.
Q And then from the time you were born until 1886 you never resided here? A No, sir.
Q Have you resided here continuously, all the time, since 1886? A Yes, sir; I have been here ever since. Ihave made this my home.
Q Well, have you lived here ever since? A Yes, sir; I have been here all the time.
Q Would mail addressed to you at some place inside of the Cherokee Nation have reached you at any time since 1886?
A Yes, sir; I have been here all the time.
Q You have lived in Missouri since 1886? A No, sir. I never lived there any at all.
Q Where were you married? A Married here in Vinita.
THE COMMISSIONER: You have kept house here all the time?
A Yes, sir.

THE COMMISSIONER: The name of Robert Hall appears in the judgment in Dawes Commission case No. 5316, Court No. 259, as having been admitted to citizenship under an application filed September 8t 1896. Having made satisfactory proof as to his residence the said Robert Hall will be duly listed for enrollment by this Commission as a Cherokee citizen by blood.
He avers thathe was married to one AdaWiner in the year 1893, and files satisfactory proof of said marriage. But the name of his wife does not appear in the judgment admitting himself. He also avers that he has a child, Meda, six years old, who was born previous to the admission of himself to citizenship. Final judgment as to the admission of the said Ida Hall, his wife, and his child, Meda, will be suspended, and their names placed upon a doubtful card.

The undersigned, being sworn, states thatas stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Mrs. S. McClure

Subscribed and sworn to before me this 2nd day of October A. D. 1900.

C. H. Breece
Commissioner.

D376

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED.
OCT 2 1900

ACTING CHAIRMAN.

Supl.-C.D.#376

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL testimony in the matter of the enrollment of ADA HALL, ET AL., as citizens of the Cherokee Nation, introduced on part of the applicants:

Mr. W. W. Hastings, Cherokee Representative, present.

The applicant's husband, Robert Hall, was notified by registered letter February 10, 1902, that the application of his wife and child to be enrolled as citizens of the Cherokee Nation would be taken up for final consideration on the 26th day of February, 1902. Receipt of Commission's letter has been acknowledged and the applicant's husband, Robert Hall, this day appears in person.

ROBERT HALL, being duly sworn, testified as follows on part of applicants:
BY COMMISSION:

Q What is your name? A Robert Hall.
Q How old are you? A 29.
Q Your post office address? A Vera.
Q Are you the husband of Ada Hall, and father of her child, Meda, who are applicants before this Commission to be enrolled as citizens of the Cherokee Nation? A Yes, sir.
Q You yourself are a citizen by blood of the Cherokee Nation?
A Yes, sir.
Q Is there any statement you desire to make relative to the enrollment of your wife and child as citizens of the Cherokee Nation?
A No, sir, I don't know as I have any proof to offer at all. The letter told me to present-
Q Evidence of marriage? A Yes, sir, and when I enrolled I left my marriage license and certificate with the Commission.
Q At Vinita? A Yes, sir.

Commission: Upon an examination of the papers filed in the matter of the application of Robert Hall it is found that there is filed therein license issued by Joseph W. Phillips, Clerk of the United States Court of the First Judicial Division, Indian Territory, authorizing the marriage to Robert Hall and Ada Miner, and certificate showing that they were united in matrimony by T. J. Crooks, a Minister of the Gospel, on the 28th day of October, 1893.

Q Do you submit this case to the Commission for final consideration?
A Yes, sir.

Commission: The applicant in behalf of his wife and the representative of the Cherokee Nation present submit this case to the Commission, and the same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

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J. O. Rosson, being firwt duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the

foregoing is a true and complete transcript of his stenographic notes thereof.

J. C. Rosser

Subscribed and sworn to before me this February 28, 1902.

Commissioner.

C0376

MAR 5 1982

ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 14th, 1902.

In the matter of the application of Ada Hall for the enrollment of herself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of her daughter, Meda Hall, as a citizen by blood of the Cherokee Nation.

Supplemental to D-376.

ADA HALL, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name? A. Ada Hall.
Q. How old are you? A. 27.
Q. What is your post office? A. Vera.
Q. Are you a white woman? A. Yes, sir.
Q. You are claiming as an intermarried citizen, are you?
A. Yes, sir.
Q. What is your husband's name? A. Robert Hall.
Q. Is he dead? A. No, sir.
Q. Still living, is he? A. Yes, sir.
Q. When were you married to him? A. In '93, in December.
Q. Is he a Cherokee by blood? A. Yes, sir.
Q. How long has he been living in the Cherokee Nation? A. I think it has been 15 years since he come.
Q. Was he admitted? A. He was admitted in 1896 by the Dawes Commission.
Q. You were married to him when, did you say? A. In '93.
Q. Have you been living with him ever since? A. I have.
Q. Never been separated? A. No, sir.
Q. Have you been living in the Cherokee Nation with him?
A. Yes, sir.
Q. You say your husband was admitted by the Dawes Commission in 1896? A. Yes, sir.
Q. He has lived in the Cherokee Nation ever since he was admitted?
A. Yes, sir; a long time before.
Q. Is he your first husband? A. Yes, sir.
Q. Are you his first wife? A. Yes, sir.
Q. How many children have you? A. One.
Q. How old is it? A. 8 years old.
Q. Was that child admitted? A. I don't know. When the application was put in in 1896 my name and the childs name was put in. His uncle put in the application and he ommitted the child's name and mine. Then we had papers made out with the child's name and mine.
Q. Do you know whether the case was ever appealed to the United States court or not? A. I think not. Not to my knowledge.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 13th day of December, 1902.

B. O. Jones
Notary Public.

Cherokee D-376.

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

In the matter of the application for the enrollment of Meda Hall as a citizen by blood of the Cherokee Nation.

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D E C I S I O N.

The record in this case shows that on September 20, 1900, Robert Hall appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of himself and his minor child, Meda Hall, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Ada Hall as a citizen by intermarriage of said Nation, but as the status of intermarried citizens is not at this time fixed, the rights of Ada Hall to enrollment as an intermarried citizen of the Cherokee Nation will not now be passed upon. The applicant, Robert Hall, is classified differently from Meda Hall and he will not be embraced in this decision. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, on February 26 and October 17, 1902.

The evidence shows that Robert Hall, father of the applicant, Meda Hall, made application to this Commission under the Act of June 10, 1896 (29 Stat., 321), for admission to citizenship in the Cherokee Nation, which application was granted by this Commission and no appeal was taken therefrom.

The evidence further shows that Meda Hall was a minor, living and in being when her father made his said application, but was not included therein, and it is further shown that she has lived in the Cherokee Nation all her life.

2 1 376

It is, therefore, the opinion of this Commission that, following the ruling of the Department in the case of Bruce L. Rowland, (I.T.D. 7989-1902), Neda Hall should be enrolled as a citizen by blood of the Cherokee Nation, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Chairman.

(SIGNED). T. B. Needles,
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this JAN 11 1905

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. breckinridge,
WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

Omm R

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-374.

Muskogee, Indian Territory, January 11, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1905, granting the application for the enrollment of Neda Hall as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Incl. S-19.

5376

IN THE MATTER OF THE APPLICATION OF

Ada Hall et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 20, 1900
B. Mem. of application " " 20, 1900
C. Birth affidavit - Meda Hall
D. Notice of final [illegible] on 2/26/02
E. Supplemental testimony and order closing testimony, Feb. 26, 1902

Cher D 377

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I.T., SEPTEMBER 20th, 1900.

IN THE MATTER OF THE APPLICATION OF Mary Jane Taft and children, for enrollment as citizens of the Cherokee Nation, and she being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Mary Jane Taft.
Q What is your age? A Forty three years of age.
Q What is your Postoffice? A Vinita.
Q What district do you live in? A Coowescoowee.
Q For whom do you apply for enrollment? A Myself and family.
Q Husband? A No sir; my husband is dead.
Q How many children? A Seven.
Q Do you apply as a Cherokee by blood? A Yes sir.
Q What proportion of Cherokee blood do you claim? A One eighth.
Q How long have you lived in the Cherokee Nation?
A I have lived here since March.
Q Were you here this year? A Yes sir; on account of my husband's health, I had to be absent; I was here the year I was enrolled.
Q How long has your name been Taft? A Ever since -- I never lived with any one but him.
Q Well, but when were you married: Have you your marriage license or certificate? A Yes sir.
Q You were never married but once, were you? A I was married to my one husband twice.
Q You were never married to but one man? A That is all.
Q You were married to him under United States and Cherokee law both, were you? A Yes sir.
Q You were married in accordance with this document on the first of October, 1881, under Cherokee law, to D. A. Taft. The applicant filed her marriage license and certificate to this effect, the license being issued by the Clerk of Coowescoowee District, and the marriage ceremony being performed by T. M. Buffington, District Judge.
Q You had been married in accordance to United States law, before that? A Yes sir.
Q Have you a certificate of that marriage? A I have at home; I have not with me here.
Q When were you married under United States law? I can not remember until I look on the license.
Q Well, about how long before this Cherokee marriage? A About 1891.
Q You were married under both laws in 1891; how long have you been married under United States law when you were married under Cherokee law? 1881.
Q About 1881? A Yes sir.
Q Were you born in the Cherokee Nation? A No sir.
Q Where were you born? A California.
Q When did you first come to the Cherokee Nation? A I came here in 1890.
Q Were you admitted to the Cherokee Nation when you came?
A Yes sir.
Q Under what name was [illegible] admitted? A Mary Jane Martin.
Q Was that your maiden name? A Yes sir. , I was admitted under my husband's name, Mary J. Taft.
Q I see here the name of Mary J. Taft; is that your name?
A Yes sir.
Q Are you the daughter of Nancy Martin? A Yes sir.
The applicant presents an official copy of an Act of the Cherokee Council, approved December, 15th, 1890, admitting various persons to citizenship, and in it appears the name of Mary Taft, daughter of Nancy Martin. This is recognized as official evidence of the facts stated.
Q You were admitted in 1890, at which time you were married: And where have you lived since 1890? A I have lived in California, up to last March.

Q You did not come to the Cherokee Nation until last March?
A No sir; on account of my husband's health.
Q You continued to live in California until last March, uninterruptedly? A Yes sir.
Q Did you bring all your children with you when you came last March? A Yes sir.
Q When did your husband die? A The 24th of last October.
Q Did you own property here, during your stay in California?
A Yes sir; I had property here.
Q Did you have after 1890? A Yes sir.
Q What property? A I can not give you the numbers, or anything about it.
Q Did you have a farm? A Yes sir, a cattle ranch.
Q Did you derive rents regularly from that property? A No sir; not until lately.
Q Did you own improved lands here all the time from 1890, down to this time? A No sir.
Q When did you first own improved property? A Since I came this time.
Q You did not own any previous to last March? A No sir.
Q Are you upon any of the rolls of the Cherokee Nation?
A Yes in 1890.
Q You married in California, did you, first? A Yes sir.
Q Your husband came here with you? A Yes sir.
Q Then you and he married under Cherokee law? A Yes sir.
Q You came here after you were admitted; then in 1890 first. You were married in 1890? A We lived here over a year after we came here.
Q In 1890? A Yes sir.
Q You came here in 1890, and lived here over a year? A Yes sir.
Q And then why did you leave? A On account of my husband's health.
Q What was the nature of his illness? A Consumption; he got hurt.
Q Now give me the name~~s~~ ~~XXXX~~ of your children, please?
A Clarence Arthur Taft.
Q How old is that child? A Sixteen.
Q Next child? A Austin .
Q How old is that child? A Sixteen.
Q Next child? A Ada Stirling.
Q How old is that child? A Eleven.
Q Next child? A Neillie .
Q How old is she? A Ten.
Q The next child? A Sherman .
Q How old is that child? A Eight years old.
Q The next child? A Stanley .
Q How old? A Four years old.
Q The next child? A Daniel Thomas.
Q How old is that child? A Two years old.
Q They are all living, are they? A Yes sir.
Q What district did your children claim as your home? (Tahlequah District)
Q Did you draw Cherokee money in 1896? A Yes sir.

By Mr. Joel L. Vaught, Cherokee representative:
Q You say you went back to California in 1890? A Yes sir.
Q Did you go back there on account of your husband's health?
A Yes sir.
Q Was he able to work in Tahlequah? A He was unable to work here: He did a little easy work when he got to California, and got hurt.

By the Commission:
The applicant applies for the enrollment of herself and seven children, all minors. She is shown to have been admitted to Cherokee citizenship by the Cherokee Commission, in 1891: She was born

in the State of California, and was married to her husband there under United States law, and they came to the Cherokee Nation in 1891 and were remarried, under Cherokee law, as shown by the license and certificate filed herewith. She states that on account of her husband's health, he being a consumptive, they were compelled after a year, or such a matter, to go back to the State of California, and that there they stayed until he died, in October, 1899; and she always looked upon the Cherokee Nation as her home, and came here as soon as she could after her husband's death, with her children, in March of this year, and has made investments here. Neither she, nor her children, can be identified at this time upon any of the rolls, and she and they will now be placed upon a "Doubtful Card," for the further consideration of the questions involved in this application, and awaiting further evidence, which she states she is able to supply. It is desired also to state that in the certificate of admission, referred to in the testimony, there is omitted with the applicant a child, Austin K., and there is a blank where the age of a child is given, and the name omitted: That, she states, is meant for her child, Clarence A.: Austin K Taft's age is given as six years; Stirling A, twelve; Nellie Taft, age one, and according to the ages given, the younger children have all been born since their mother was admitted to citizenship.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Crawford

Subscribed and sworn to before me
this 22nd day of September, 1900.

C O M M I S S I O N E R.

D3771

D3771

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1900

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 29, 1900.

D.877.

In the matter of the application of Mary J. Taft and children for enrollment.

Additional testimony.

Mary J. Taft, being sworn and examined by Commissioner Breckenridge, testified as follows:

Q Give me your name, please? A Mary J. Taft.

Q You made application a few days ago? A Yes, sir.

Q You are from Vinita and live in Cooweescoowee district? A Yes, sir

Q What you want to do this morning is to establish the fact of your admission by the Cherokee Commission to citizenship? A Yes, sir.

(The applicant presents an official copy of an act of the Cherokee Council approved December 15, 1890, showing that at that time certain persons were admitted to citizenship by the Council, and among them appears the name of Mary Taft.)

Q That is your name, is it? A Yes, sir.

(This is recognized as official evidence of the ~~xxxxx~~ facts stated.)

Q Do you want to establish that any other persons were admitted at the same time? A My mother, and my oldest boy his name is not on there, but he was admitted at the same time I was.

Q Was Austin K. Taft, 6 years old, admitted at the same time, that one of your children? A Yes, sir.

Q Sterling A. Taft, 8 years old, that one of your children?

A Yes, sir.

Q Nellie Taft, one year old, that is another one of your children, she too was admitted? A Yes, sir.

Q Any more of your family concerned in that application; any more concerned here? A No, sir.

Q You have got another child that you apply for, Clarence? A Yes, sir, he is my oldest boy.

Q Well, you don't want to forget him on that account? A No, sir.

Q This certificate specified that a child 8 years old in 1890, was admitted, but doesn't give any name for that child? A That is him, his name wasn't put on.

Q You think that is meant for Clarence? A Yes, sir, it is meant for him.

Q This is a copy you sent and got for yourself? A Yes, sir, Mr. Buffington sent and got it Thursday.

(Paper filed herewith.)

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 1st of October, 1900.

C. R. Breckenridge

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 1 1900

ACTING CHAIRMAN.

Cherokee D-4.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 31, 1901.

In the matter of the application of Mary J. Taft et al. for enrollment as citizens of the Cherokee Nation.

Additional testimony on behalf of the applicants:

Appearances:
Applicant present in person;
Cherokee Representative present.

NANCY WHITE, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Nancy White.
Q How old are you? A I am 65.
Q What is your postoffice? A Vinita.
Q In what district do you live? A I live in Delaware.
Q You want to give some evidence about the applicants here, Julia Moore here, do you not? A Yes, sir, and Mrs. Taft.
Q Have you made application for enrollment as a Cherokee yourself?
A Yes, sir, long ago.
Q It appears that Julia A. Moore applied on the 2nd day of last September for enrollment for herself and children? A Yes, sir.
Q Is that the lady sitting here (indicating Mrs. Julia A. Moore)?
A Yes, sir.
Q She is your daughter? A Yes, sir.
Q And you want simply to have her identified in the testimony as your daughter? A Yes, sir.
Q Well, your present husband, or your last husband, wasn't her father? A No, sir, that wasn't her father.
Q What was the name of her father? A Jack Martin.
Q And how old do you call your daughter, Mrs. Moore? A 32.
Q Then you have another daughter you want to identify? A Yes, sir, Mrs. Taft.
Q Mary J. Taft? A Yes, sir.
Q That the lady sitting there (indicating)? A Yes, sir.
Q What was her name? A Martin.
Q She was also the daughter of your husband Martin? A Yes, sir.
Q Do you claim to be a Cherokee by blood yourself? A Yes, sir.
Q What was your husband Martin, a white man? A Yes, sir, he was a white man.
Q Were you ever married before you married Martin? A Yes, sir, I married John White.
Q He was your first husband? A No, sir, he was my last husband.
Q I ask you if you were ever married before you married John Martin?
A No, sir, he was my first husband.
Q Is he dead? A Yes, sir, he has been dead a good while.
Q Have you and he lived together from the time you were married until he died? A Yes, sir.
Q Where were you married? A In California, Nevada City.
Q Who married you? A I can't tell you, it has been so long, in '55 we were married.
Q Do you remember what denomination he belonged to? A I think he was a Methodist.
Q When did he die, this husband Martin of yours? A He has been dead about 10 or 11 years ago.
Q You lived with him down to that time? A Yes, sir, he died here.
Q When did you come back from California? A I got back the other day.
Q But you were married to Mr. Martin in '54? A Yes, sir.
Q When did you get back after your marriage in '54 to Mr. Martin?
A Well I had been married about thirty years, after I was married to Mr. Martin.

Q Before you came back to the Cherokee Nation? A Yes, sir, along in the eighties sometime.

Q Have you lived here ever since? A Yes, most of my time, yes.

Q You say you just lately came back from California? A Yes, we went out there last fall for our health and Mr. White died out there, my last husband.

Q How long had he been there? A We had been there but a little while, we went in October.

Q Where have you been making your home; in California? A No, I have been making my home right here in this country.

Cherokee Representative: Did Mrs. Moore and your other daughter who is present here permanently located in the Cherokee Nation before the year 1894? A Yes, sir.

Q When did they first move to the Cherokee Nation prior to 1894? Mrs. Moore? A She came when I did.

Q Well when did you come? A I came in the eighties.

Q Isn't it a fact that Mrs. Moore moved from California to the Cherokee Nation in 1896? A Yes, it may be; we all came back together here.

Commissioner: A set of this testimony will be filed in Cherokee straight case No. 3406, the same being the case of John White et al., and in Cherokee Doubtful case D-380, the same being the case of Julia A. Taf Moore et al., and in Cherokee Doubtful case, D-357, the same being the case of Mary J. Taft et al.

Commissioner: You state now your husband, John White, is dead at this time? A Yes, sir.

Q When did he die? A Last May, the 20th day of May.

Q He died in California? A Yes, sir.

Q Where he had gone for his health? A Yes, sir.

****

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 5th of November, 1901.

Commissioner.

Supl.-C.D.#377.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL in the matter of the enrollment of MARY J. TAFT, ET AL., as citizens of the Cherokee Nation:

The applicant was notified by registered letter February 10, 1902, that her case would be taken up for final consideration by the Commission on the 26th day of February, 1902, Receipt has been acknowledged of Commission's letter and the applicant appears by Attorney, Robert Toomer, representing Blue & Wilson, of Vinita, Indian Territory.

Mr. W. W. Hastings, Cherokee Representative, present.

JULIA A. CARROLL, being duly sworn, testified as follows on part of applicants:

MR. TOOMER:

Q What is your name? A Julia A. Carroll.
Q Did you know Mary J. Taft? A Yes, sir; she was my sister.
Q Do you know Clarence Taft? A Yes, sir.
Q Well, who is he? A He is my sister's son, Mary J. Taft.
Q Is he the oldest or youngest son? A He is the oldest.
Q How old is he now? A He will be 21 the 1st day of April.
Q Is he a half brother of Austin Taft and these other different children? A Yes, sir, full brother to them all.
Q Who applied for enrollment? A Yes, sir.
Q Do you know anything about the time that your sister or who ever made the application to enrollment by the Cherokee Commission. Do you know anything who made that application for them before the Commission? A I think it was my mother.
Q Well, it seems from the copy of the record of that enrollment that Clarence's name was left out; do you know anything about how that occurred? A No, sir, I don't.

Mr. Toomer: I will have the Commission to note the language of this Act. That Nancy Martin, nee Taylor, Mary Taft (daughter), and her children, aged eight years, Austin K. Taft, aged six years, Sterling Taft, two years, Nellie Taft one year. I want to call the attention of the Commission to the hiatus in this record. Evidently the name of Clarence was omitted by mistake. It says eight years old and that eight years had reference to Clarence Taft.

Q Is that about Clarence's age at that time? A Yes, I suppose it was in 1890, wasn't it.
Q Yes, was an Act in 1890, on December 13.

MR. HASTINGS:

Q Mary J. Taft your sister? A Yes, sir.
Q Where is she now? A She is in Vinita.
Q How long has she been there this last time?
A About two years, I believe, this last time.
Q All the time, continuously? A Yes, sir.
Q Has she been back to California in the meantime?
A No, sir.
Q Where are all of these children? A They are at home with her, except one, it is at Muldrew with my Sister, Austin.

MR. TOOMER:

CLARENCE TAFT, being duly sworn, testified as follows in his own behalf:

Q What is your name? A Clarence Taft.
Q Who was your mother? A Mary J. Taft.
Q Is she living? A Yes, sir.
Q What is your post office? A Vinita, Indian Territory.
Q Were you living in 189, with your mother? A Yes, sir.
Q Do you remember what application was made for your admission to the Cherokee Commission? A Yes, sir; I can remember it.
Q Are you a brother of Austin K. Taft? A Yes, sir.
Q Are you older or younger? A Older.
Q How much? A About four years, very near four.
Q Are you a brother of Sterling? A Yes, sir.
Q And brotherof Nellie? A Yes, sir.
Q Who made that application, your mother or your grandmother?
A My grandmother I believe.
Q Was your name taken with these other children? A I believe it was.

MR. HASTINGS:

Q You were not there? A No, sir.

MR. TOOMER:

Q Do you know of any reason why your name was not admitted with the other children? A No, sir.
Q Was it the intention of your mother or grandmother to have all of you children enrolled?

Mr. Hastings: I submit that this is entirely incompetent. This boy was only nine years of age and don't know anything about it.

MR. HASTINGS:

Q How long have you actually been in Vinita; when did you come there
A I came there two years ago.
Q Now, exactly when? A I got there the 10th of March.
Q Of what year? A of '99.
Q '99? A Yes,-it was '91 I guess.
Q 1901? A It was two years ago next march.
Q That would be 1900; I don't want to confuse you; it will be two years coming March? A Yes, sir.
Q And you have lived there all that time? A Not all that time; been in the Territory all that time.
Q Where have you been? A I have been at Muldrow.
Q But you have been in the Cherokee Nation since March, 1900?
A Yes, sir.
Q Come here with your mother? A Yes, sir.
Q And the rest of the children? A Yes, sir.
Q Where were you born? A I was born in California.
Q When were you born? A In 1881.
Q What day of the month? A April 1st.
Q Are you the oldest of these children? A Yes, sir
Q You are a full brother to the rest of these children?
A Yes, sir.
Q That was your first trip to the Cherokee Nation here when you came in March, 1900? A No, sir, we came here in 1889, or '90.
Q Came in 1889 or '90? A Yes, sir.
Q How long did you stay here that time? A We stayed here about two years.
Q And were you readmitted while you were out here that time?
A Yes, sir.
Q And then you went back to California? A Yes, sir.
Q And then you returned in March, 1900? A Yes, sir.
Q Lived with your mother that length of time? A Yes, sir, I have been with her all the time.
Q She was out in California all that time? A Yes, sir.
Q And she returned with you? A Yes, sir.
Q And brought the rest of these children with her? A Yes, sir.

Q Did you make a crepx here in 1890? A No, sir, we just worked around.
Q Were? A We was living about eight miles west of Vinita.
Q Where were you and your mother two years before 1900, in '98, you were in California? A Yes, sir.

MR. TOOMER:

Q Do you know why your father went back to Clifornia after he came here after this enrollment? A For his health, he was very nearly dead.
Q What was the matter with him? A He had chills and fever and was all run down.
Q Did he have the consumption? A He didn't at that time.
Q Did he finally die out there? A Yes, sir.
Q And after he died your mother came back? A Yes, sir.
Q Just tell the Commission how you all got back? A Through the aid of the Masons.
Q Through the Fraternity you managed to get back? A Yes, sir.

MR. HASTINGS:

Q When did your father die? A He died in November.
Q What year? A '99.
Q In California? A Yes, sir; I made a mistake, it was October 24, 1899.

Commission: The attorney for the applicant and representative of the Cherokee Nation present submit this case to the Commission for final consideration, and it is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof:

J O Rosson

Subscribed and sworn to before me this this March 1, 1902.

Commissioner.

Cherokee D-377. 9815

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

In the matter of the application for the enrollment of Mary Jane Taft and her seven minor children, Clarence A., Austin K., Asa S., Nellie H., Sherman W., Stanley B. and Daniel E. Taft, as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 20,1900, Mary Jane Taft appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and her seven minor children, Clarence A., Austin K., Asa S., Nellie H., Sherman W., Stanley B. and Daniel E. Taft, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on September 29,1900 and on October 31,1901, and at Muskogee, Indian Territory, on February 26,1902.

The evidence shows that Mary Jane Taft and her minor children, Austin K., Asa S. and Nellie H. Taft, were admitted to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation, on December 15,1890. It seems probable that Clarence A. Taft was also admitted at that time, but the evidence is not conclusive. The names of the applicants, or any of them, do not appear upon any of the tribal rolls of the Cherokee Nation in possession of the Commission. Sherman W., Stanley B. and Daniel E. Taft are shown to be the minor children of Mary Jane Taft, and they are identified by affidavits of birth on file with the Commission.

The evidence further shows that the said Mary Jane, Clarence A., Austin K., Asa S. and Nellie H. Taft removed to the Cherokee Nation in 1890 and resided there about one year; that they then went to the State of California; that neither of the applicants removed to and in good faith settled in the Cherokee Nation prior to June 28,1898.

Paragraph 9 of Section 21 of the Act of Congress, approved June 28,1898 (30 Stats.,495), provides:

> "No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

It is, therefore, the opinion of this Commission that the application for the enrollment of Mary Jane Taft, Clarence A. Taft, Austin K. Taft, Asa S. Taft, Nellie H. Taft, Sherman W. Taft Stanley B. Taft and Daniel E. Taft as citizens by blood of the Cherokee Nation should be denied, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Acting Chairman.

T. B. Needles.
Commissioner.

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Commissioner.

Muskogee, Indian Territory,

this DEC 10 1902

Supl. Chero. D-377.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, Indian Territory, April 27, 1903.

In the matter of the application of Mary J. Taft for the enrollment of herself and children, Clarence A., Austin K., Asa A., Nellie H., Sherman W., Stanley B. and Daniel E. Taft, as citizens by blood of the Cherokee Nation.

D. H. Wilson appears on behalf of applicants; no appearance on part of the Cherokee Nation.

T. M. Buffington, being duly sworn, testified as follows:

By D. H. Wilson: State your name, age and residence? A T. M. Buffington; age forty-seven; Vinita my postoffice.
Q What official position do you hold? A Principal Chief at this time.
Q Were you acquainted with Mary Jane Taft, the applicant, and her children? A Yes.
Q Were you acquainted with her husband? A I was. He lived neighbor to me while he lived in the country.
Q Do you know the cause of his removal to California? A Well, I don't know that I do, only from what I have heard him say that he was a blacksmith by trade here and didn't seem to be going any good in this country and he thought he could do better out there; that is about the way I understood him.
Q What about his health? Do you know why he didn't come back here before June, 1898? A I had letters from him, a number of letters, while he was in California, and he wrote me about having an accident in which he was badly crippled.
Q Did you understand from him that it was on account of his health that he couldn't get back here? A That was the way he wrote me, that he wasn't able to get back, but he had always intended to get back, to come back was the way he put it. I might add that I married him at the time I was District Judge and married him according to Cherokee law, and I took it that he had intended to live here and make it his home, and no need of his remarrying again.
Q Do you know whether Mary Jane Taft and her people are Indians by blood? A No, I don't know that of my own personal knowledge, you know.
Q But what is the reputation as to that? A That is the reputation, that her mother is considered a Cherokee, almost a half-breed. I never made any inquiries as to that. I know the family she belonged to.
Q Judge, do you know how they finally were enabled to get back to the Cherokee Nation? A No sir, I don't know as to that. I heard though they made application to the Masonic Lodge and were helped that way. Taft was a Mason, but I don't know that that was the way.
Q Do you know whether they always claimed this to be their home and claimed their interests here, or whether they undertook to abandon this country as their home? A I don't think they had any idea of abandoning it. I never lived near Mr. Taft only just that one season I speak of in my immediate neighborhood. That is all the acquaintance I had with him.
C Commission: When do you say this was that Mr. Taft left for California? A I don't know as to the dates.
Q Did you have any conversation with him at the time he went away? A Just a few days before he went away I did; I had talked with him.

Q What did he say with reference to his reason for going? A It was as I stated that he wasn't doing any good here at his trade and went back out there because he could do better; that was how I understood it. In every conversation I had with him in reference to it he always claimed he was coming back . He talked to me about buying something in the way of stock to leave here because I told him the constitution provided that if they moved away and took their effects out of the country that they would have to be readmitted again.
Q What did he say about buying stock? A He talked of buying something and leaving on the range.
Q For what purpose? A So it wouldn't affect his citizenship by going away.
Q Did he have any farm at that time? A I don't know, he was living on a rented place the year he lived in my neighborhood; I don't know whether he bought a place or not.
Q You don't know whether he owned a place or not? A No, I don't; some of the family owned a place seven or eight miles from town, but I don't know whether Mr. Taft owned any place or not.
Q He never came back? A No sir, he died out there.
Q Do you know how soon after his death his wife and children came back? A No sir, I don't.
Q You had letters from him while he was gone? A Yes sir, I had several of them.
Q Have you any of them in your possession? A I haven't them with me, and I don't know whether I can find them or not.
Q I wish you would look for them? A All right, I will see if I can dig up some. I run on a power of attorney some time ago that he sent me to transact some business for him in this country, while he was in California.
Q Was that with reference to some property here? A With reference to some claim he had here through council.
Q Was it or was it not generally supposed in the community that he had abandoned country? A I don't know how the community would think about that. I don't remember of ever hearing anyone speak about it.
Q Do you know how long they were gone altogether? A No sir, I don't remember the dates. It must have been about '91 or '2 when they were readmitted here; and he stayed here about two years; that is just guessing at it though; I don't remember the exact dates. And he went back out there and got in an accident.
Q Do you know what he did out there in California for a living? A I think he was ~~living~~ working in a mine when the accident happened.
Q He was a blacksmith in this country? A Yes sir.
Q In Vinita here? A In the town of Vinita for a while.
Q Was he in poor health, do you know, when he left? A I don't remember as to that.
Q He was a poor man, was he? A Yes sir.
Q I believe you say that the family was in a destitute circumstance when they were brought back from California? A Yes sir. Since that time Mrs. Taft has died.
Q Mrs. Taft is now dead? A Yes sir.
Q When did she die? A I don't know. This is her son here; he knows the date I guess.

S-Mary J. Taft et al.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

E. Rothenberger

Subscribed and sworn to before me this 28th day of April, 1905.

Samuel Foreman
Notary Public.

CB377

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 6 1903

CHAIRMAN

Cherokee D 377

JAC

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

In the matter of the application for the enrollment of Mary Jane Taft and minor children, Clarence A., Austin K., Asa S., Nellie H., Sherman W., Stanley B. and Daniel E. Taft, as citizens by blood of the Cherokee Nation:

D E C I S I O N

The record in this case shows that on September 20, 1900, Mary Jane Taft appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of herself and minor children, Clarence A., Austin K., Asa S., Nellie H., Sherman W., Stanley B. and Daniel E. Taft, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on September 29, 1900, and October 31, 1901; and at Muskogee, Indian Territory, on February 26, 1902. On December 10, 1902, the Commission rendered a decision in the matter of said application and forwarded the same to the Department of the Interior for approval. The Department did not approve said decision but, under date of March 23, 1903, returned the record in said case to the Commission for readjudication and, on April 27, 1903, further proceedings in the matter of said application were had at Vinita, Indian Territory.

The evidence shows that the applicant, Mary Jane Taft, is a Cherokee by blood; that the applicants, Clarence A., Austin K., Asa S., Nellie H., Sherman W., Stanley B. and Daniel E. Taft, are the minor children of the said Mary Jane Taft; that the said Mary Jane Taft and children, Austin K., Asa S. and Nellie H. Taft, were admitted to citizenship in the Cherokee Nation, by the duly constituted authorities of said nation, on December 15, 1890. Evidence has been submitted tending to show that Clarence A. Taft was admitted at the same time but that his name was erroneously omitted from the act. It also appears that he was a minor at the time his mother was admitted to citizenship.

None of the names of said applicants are found on the tribal rolls of the Cherokee Nation in possession of the Commission. Sherman W., Stanley B. and Daniel E. Taft are duly identified by birth affidavits made a part of the record herein.

The evidence further shows that the said Mary Jane Taft moved to the Cherokee Nation in 1890 and resided therein for about two years, at the end of which she removed to the state of California and resided in said state until in 1900, when she again removed to the Cherokee Nation and resided therein until her death. It appears that her residence in California from 1892 to 1900 was of a temporary character and that during all of said time she owned personal property in the Cherokee Nation and claimed said nation as her home.

The residence of all the minor applicants herein is considered to be the same as that of their mother, the said Mary Jane Taft, since birth. It appears from affidavits, made a part of the

Cherokee D 377

record herein, that the applicant, Mary Jane Taft, died on the 27 day of June, 1902.

Section Twenty-five of the Act of Congress approved July 1, 1902 (32 Stats., 716), provides as follows:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

It is, therefore, the opinion of this Commission, following the decision of the Department in the case of Joseph D. Yeargain et al., Cherokee D 937 (I. T. D. 2900-1903), that the said Clarence A. Taft, Austin K. Taft, Asa S. Taft, Nellie H. Taft, Sherman W. Taft, Stanley B. Taft and Daniel E. Taft should be enrolled as citizens by blood of the Cherokee Nation, in accordance with the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered; and it is further ordered that the application for the enrollment of Mary Jane Taft, as a citizen by blood of the Cherokee Nation, be, and the same is hereby, dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby.
Chairman.

T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

T. B. Stanley.
Commissioner.

Muskogee, Indian Territory,

this SEP 18 1903

ATTORNEYS

L. B. BELL

W. W. HASTINGS

J. S. DAVENPORT

J. C. STARR, SECRETARY

No. F. D.

OFFICE OF

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

MUSKOGEE, IND. TER.

July 28, 1902. Our copy loaned to D. H. Wilson, Vinita I. T.

MD4

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-377

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, September 22, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated September 18, 1903, granting the application for the enrollment of Clarence A., Austin K., Asa S., Nellie H., Sherman W., Stanley B. and Daniel E. Taft, and dismissing the application for the enrollment of Mary Jane Taft, as citizens by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to furnish the applicants. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Chairman.

Enc. D-20

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COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D-377.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, April 16, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated September 18, 1903, granting the application for the enrollment of Clarence A. Austin K., Asa S., Nellie H., Sherman W., Stanley B. and Daniel E. Taft as citizens by blood of the Cherokee Nation, and dismissing the application for the enrollment of Mary A. Taft as a citizen by blood of said nation, she having died on July 27, 1902, was affirmed by the Secretary of the Interior on April 1, 1904.

Respectfully,

Commissioner in Charge.

COMMISSIONERS.
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH, SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 377.

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, December 19, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, rejecting the application of Mary J. Taft for the enrollment of herself and her seven minor children, Clarence A., Austin K., Asa S., Nellie H., Sherman W., Stanley B. and Daniel E. Taft, as citizens by blood of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.
Acting Chairman.

Enclosure H. No. 370.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-377

Muskogee, Indian Territory, April 8, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation.

Vinita, Indian Territory.

Dear Sir:

You are hereby notified that on March 23, the Secretary of the Interior remanded for further hearing, the application of Mary J. Taft, et al., for enrollment as citizens of the Cherokee Nation. Further evidence is particularly required as to the residence of these applicants. The principal applicant and her attorney have this day been notified that they may appear before the Cherokee Land Office of this Commission at Vinita, Indian Territory, on or before April 27, 1903, and introduce any testimony which they may have tending to establish the rights of herself and family to enrollment as citizens of the Cherokee Nation.

Respectfully,

Chairman.

GRS

D-35

IN THE MATTER OF THE APPLICATION OF

Mary J. Taft et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

Original testimony September 20. 1900
Dem. of application " 20. 1900
Marriage License and certificate
Certified copy of act of admission
Affidavit of physician
Additional testimony September 29. 1900
Birth affidavit - Thomas W. Taft
" " - Stanley B. Taft
" " - Daniel E. Taft
Letter from J. J. Spencer relative to applicant's status

Additional testimony Oct. 1. 1901

Notice of final consideration 1/26/02

Supplemental testimony and order closing testimony July 11, 1902.
April 16, 1904. 1781 dismissed & transferred to Cherokee R. 1781 and 1782 to 8 inval. transferred to Cherokee 10785.

Cher D 378

Filed with Perry H. Beason R-378
Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., September 18, 1906.

In the matter of the application of Maria L. Fleming for the enrollment of herself and child as Cherokees by blood and her husband as a Cherokee by intermarriage; being sworn and examined by Commissioner Needles, she testified as follows:
Q What is your name? A Maria L. Fleming.
Q How old are you? A I put my age down as 50, I don't think I am on the roll.
Q What is your postoffice address? A Nowata.
Q What district do you live in? A Delaware.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q What degree of blood do you claim? A I don't know for certain, I have been put down 1/8, I think about 1/16.
Q Who do you apply for for enrollment? A Myself and one child, I have two, but one is married, and my husband.
Q What is the name of your father? A Thomas Clark.
Q He is a Cherokee citizen by blood? A No sir, a white man.
Q He living? A No sir.
Q What is the name of your mother? A Ann Clark.
Q She living? A No, sir, she died when I was a child.
Q She a Cherokee Citizen by blood? A Yes sir.
Q What is the name of your husband? A James W. Fleming.
Q What is his age? A 43 years old.
Q When were you married to James Fleming? A In 1889.
Q Have you a certificate of marriage? A I haven't it with us.
Q Your husbands father and mother are non-citizens? A Yes sir.
Q He is a white man? A Yes sir.
Q What is the name of your child for whom you apply? A Edward Beeson.
Q How old is Edward Beeson? A 14 years old; the other one is married.
Q How does his name happen to be Beeson? A He is my first husbands child.
Q When were you married to your first husband? A 26 years ago.
Q What he a white person, a non citizen? A Yes sir.
Q He living? A No, sir, he is dead.
Q Did he die before you married Mr. Fleming here? A Yes sir.
Q What was your name in 1880? A Beeson, but I am not on the 1880 roll.
Q By what right do ~~a~~ you claim citizenship? A Because I have lived here all my life, and my husband has the consumption, and we traveled and were west in 1880.
Q Your name is not on the 1880 roll? A No, sir, but on the other rolls it is there.
(Maria L. Fleming on ~~ka~~ 1896 roll, page 469, No.1117, Delaware dist.)
Q You say your father was named Thomas Clark; was he a citizen by blood? A No, sir.
Q Your mother's name? A Ann Clark.
Q She a citizen by blood? A Yes sir.
Q Her name appear upon the 1880 roll? A No sir, she died before the war.
(James W. Fleming on 1896 roll, page 578, No. 185, Delaware district. Edward Beeson on 1896 roll, page 445, No. 410, Edward D. Beeson, Delaware district.)
Q Have you any proof to offer as to your Cherokee citizenship?
A Yes sir, I can get plenty of it.
Q Your name doesn't appear upon the roll of 1880, and you must prove your name is on the authenticated roll of 1880 or you have been admitted by the constituted authorities of the Cherokee Nation?

A I was, I have got proof, I went to Tahlequah and had it put on there.
Mr. W. T. Hutchings, attorney for Cherokee Nation: How long did you remain out of the Nation with your first husband? A About seven x years.
Q In what State? A Wyoming Territory.
Q Did you leave any thing here? A I left all that I had, I had my farm and cattle and horses and plows and some things in the house.
Q And you went there because he had consumption? A Yes sir, he died there.
Q Did he die there? A No, sir he died here a year after we came back.

Commissioner Needles: The name of Maria L. Fleming appears upon the census roll of 1896. She avers that she is the daughter of Thomas and Ann Clark, that her mother Ann Clark was a citizen by blood, but her name does not appear upon the authenticated roll of 1880; neither does the name of Maria L. Fleming appear upon the authenticated roll of 1880. She avers that she was married to James W. Fleming, a non citizen, in the year 1889, but presents no proof of marriage nor certificate of Marriage, and the name of her husband appears upon the census roll of 1896. She avers that she has one son Edward B. Beeson, by a former husband, and the name of Edward B. Beeson appears upon the census roll of 1896. Because of the fact that the name of the applicantdoes not appear upon the authenticated roll of 1880, and she presents no authenticated proof, record or certificate as to her Cherokee citizenship, and the further fact that she presents no certificate of marriage or proof of marriage as to her husband, James W., final judgment as to the enrollment of the said Maria L.Fleming, her husband as an intermarriage citizen, and her son, Edward B. Beeson, will be suspended, and their names will be placed upon a doubtful card, awaiting proof of marriage and proof as to citizenship.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 19th of September 1900.

T. B. Needles,
Commissioner.

I, Margaret Crutsinger, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I made the foregoing copy and that same is a true and complete copy of the original transcript.

Margaret Crutsinger

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., SEPTEMBER 21st, 1900.

IN THE MATTER OF THE APPLICATION OF Perry Harmon Beeson, wife and child for enrollment as citizens of the Cherokee Nation, and he being sworn by Commissioner, C. R. Breckinridge, testified as follows:

Q What is your full name? A Perry Harmon Beeson.
Q What is your age? A Twenty five.
Q What is your Postoffice? A Vinita.
Q What district do you live in? A Coowescoowee/
Q Who is it you want to have put on the rolls; yourself?
A Myself, wife and child.
Q One child? A Yes sir.
Q Do you apply as a Cherokee by blood? A Yes sir.
Q What proportion of Cherokee blood have you? A About one sixteenth.
Q Is your wife a Cherokee? A Delaware.
Q How long have you lived in the Cherokee Nation? A I was born here.
Q Have you lived here all your life? A I have not.
Q How long have you been here continuously? A I was born here, and lived here until I was three years old: My father's health was bad, and he went west, and returned here when I was nine or ten years old.
Q Have you been here ever since? A Yes sir.
Q You are on the roll of 1880, are you? A No sir; I was five years old, and out at that time.
Q You are on the roll of 1896, are you? A Yes sir.
Q From what district? A Delaware.
Q Were you readmitted when you came back to the Cherokee Nation?
A They would not accept us because we were not on the 1880 rolls.
Q They would not accept you because you were not on the roll; what enrollment; the 1896 enrollment? A Yes sir.
Q You have never been readmitted by special Act of the Cherokee Commission or Council? A The Committee that questioned us was appointed by the Cherokee Council.
Q You have no certificate of admission? A No sir; I have not.
Q What is the name of your father? A H. V. Beeson.
Q Cherokee or white man? A White man.
Q Dead or living? A Dead.
Q How long since he died? A He died in 1886.
Q He is not on the roll of 1880 either? A No sir.
Q Give me your mother's name? A Mariah Beeson.
Q Cherokee or white woman? A Cherokee.
Q Is she dead or living? A Living.
Q She is not on the roll of 1880 either? A No sir.
Q Give me the name of your wife? A Mary Frances Beeson.
Q What was her name when you married her? A Weaver.
Q Was that her maiden name? A Yes sir.
Q She had never been married before? A No sir.
Q Is she on the roll of 1880? A Yes sir.
Q And on the roll of 1896? A Yes sir.
Q Has she lived in the Cherokee Nation all her life? A She has.
Q Were you married to her in accordance with Cherokee law?
A According to the law then, I did not have to; I was counted a citizen then.
Q You just married her, as a Cherokee would marry her? A Yes sir.
Q What is the name of her father? A John Weaver.
Q Cherokee or white man? A White man.
Q Dead or living? A Living.
Q Her mother's name? A Mary Weaver.
Q She is a Delaware, is she? A Yes sir.
Q Is she dead or living? A Living.
Q Give me the name of your child? A John Edward Beeson.
Q How old is that child? A Four years old.
Q When were you married to your wife? A 1894.
(1880 Roll, Page 338, #2958, Mary F. Weaver, Delaware District)
(1896 Roll, Page 362, #147, Mary A. Beeson, Delaware District)

(Applicant is married with her child, John E. Beeson)
(1896 Roll, Page 443, #411, Perry H. Beeson, Delaware District)
(1896 Roll, Page 362, #148, John E. Beeson, Coweescoowee D'st)

The applicant applies for the enrollment of himself, his wife, and one child. He is identified on the roll of 1896, as a Native Cherokee: He states that he was born in the Cherokee Nation, but that before the roll of 1880 was made, his father was compelled to move out of the Cherokee Nation, on account of his health, and by reason of the absence, he, the applicant, was not put on the roll of 1880: That he returned to the Cherokee Nation some fifteen years ago and has lived here ever since. The Cherokee Representative, present, contests that he should have been admitted by the National Council, or Commission, which the applicant states was never done, and therefore, the application he makes for his own enrollment at this time will be placed upon a Doubtful Card, for further consideration by the Commission. The Cherokee Representative calls attention to Section Two, Article One, of the Cherokee Consitution.

The applicant's wife is identified on the rolls of 1880 and 1896, as a Delaware: She has lived in the Cherokee Nation all her life: She is identified with her husband and child on the roll of 1896, and she will be listed now for enrollment as a Native Delaware: She was married to her husband in 1894.

Their child, John E. Beeson is identified with his parents on the roll of 1896; he is living at this time, and will be listed now for enrollment as a Native Delaware.

Q The child is living now, is he? A Yes sir.
Q Where did you stay with your father during the time he was out of the Cherokee Nation? A In Wyoming.

The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

R R Graves

Subscribed and sworn to before me
this 22nd day of September, 1900.

C. R. Breckinridge

COMMISSIONER.

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DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 22 1906

ACTING
ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 4, 1900.

D. 376
B. 330

In the matter of the application of Perry H. Beason for enrollment as a Cherokee by blood.

In the matter of the application of James W. Fleming et al. for enrollment as Cherokees.

Additional testimony.

Henry L. Porter, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your name, please? A Henry L. Porter.
Q Give me your age? A 51.
Q your post office? A Seneca, Mo.
Q Do you want to give additional testimony in an application that has been made? A Yes, sir.
Q Whose application? A Mr. Beason's.
Q What is his full name? A I don't know that I remember his full name, P. H. Beason I believe.
Q What testimony do you want t give in connection with that case; you want to offer some additional testimony in regard to the application of P. H. Beason? A Yes, sir, I understand he wants to prove by me that when his father returned from out west, he wants to prove by me the state of his health; I was his physician.
Q Do you know when he returned? A I don't know exactly when he returned, but my first professional visit was March 29, 1886; I had known him then for a few months before.
Q Were you his physician at that time? A Yes, sir.
Q What was the condition of his health? A His health was very bad, he had very bad lungs.
Q Did he live very long after his return? A He lived probably 3 years.
Q Do you know when he left here? A No, sir, I only know about his return, his condition then.
Q Did you understand that he had been away for the benefit of his health? A That is what he told me.
Q You understand he didn't move away but had gone away for his health? A Yes, sir, but it had proved a failure and he had come home.
Q He died pretty soon after? A He died on the 21st of September, 1887, I believe.
Mr. J.L.Baugh, representative of the Cherokee Nation: From what disease did he die? A It has been quite a long time, I would hate to be positive, but his lungs were the trouble, he had hemorrhage from the lungs, the first visit I was called to see him he had a hemorrhage.
Q Do you think he died from consumption? A Well, it was from diseased lungs, yes, sir.
Q Do you think this was the course of his leaving this country, - having bad lungs here? A It was a very reasonable cause, doctors are sending people out to the western country for their health.
Q Was there any statement made in your presence at the time he left here why he left here? A He told my why he left here, he told me for the benefit of his health.
Q Did he tell you he went out under the doctors instructions?
A I wouldn't be positive as to that, all I remember is he frequently talked to me about his visit out there for his health, and it proved a failure.
Q Did he tell you it had got so he couldn't live in that country and he had come to die and he would like to die in this country?
A He told me he was growing worse instead of better out there.
Q And he concluded he had rather come here and die? A Yes, sir.
Q From the same disease that he left here with, that your understanding? A Yes, sir.
Q Was there anything said at any time while you were attending him as a physician as to why he wasn't enrolled on the roll of 1880?

A No, sir, I never remember anything about that.
Q Did he tell you at any time during his last illness that he was living in Colorado or any other part of the country in 1880? A He told me that he had went out west for his health.
Q During what time? A Well, that was previous to the time that I began treating him, previous to March 25, 1886.
Q You never heard him make any statement as to when he moved away from here and went to the west? A No t that I remember.

C. H. Preston, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your name, please? A C. H. Preston.
Q Your age? A 55.
Q Your post office? A Fairland.
Q You want to give some additional testimony here in a case?
A Yes, sir, I can.
Q What are you here for? A I was to give some testimony in the case of Mr. Beeson.
Q This relate to the father of Perry H. Beeson? A Yes, sir.
Q And also in the application made to James H. Fleming et al.?
A Yes, sir.
Q You want to say something about the father of Perry Beeson being absent about 1880, do you? A Yes, sir.
Q Why was he out of the Cherokee Nation in 1880? A His lungs were affected and I advised him to go to the mountains.
Q You a doctor? A Yes, sir.
Q You sent him out as a physician? A Yes, I sent him out there and he remained there and regained his health and then came back.
Q How long did he stay out there? A About I suppose 7 years.
Q Did he leave his property and effects and all here? A Yes, sir, he left all here.
Q He just went there as a man going on health? A Just going for health.
Q And then when he came back his lungs got into bad condition again very soon? A I don't suppose he was here a year? A
Q Then he died? A Yes, sir.
Mr. J.L.Baugh: Are you a licensed doctor in this country?
A I was with the army.
Q You have been licensed to practice medicine in the Cherokee Nation? A Yes, sir.
Q At what time did Mr. Beeson leave the Cherokee Nation? A I don't remember, I didn't make much of a memorandum, about 1878 or 1879.
Q Did you recommend to him that it was necessary for him to leave this country? A Yes, sir.
Commissioner Breckenridge: That has all been brought out in the testimony of this witness.

George Gibney, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give your name please? A George Gibney.
Q What is your age? A 46.
Q What is your post office? A Vinita
Q In what district do you live? A Delaware.
Q You are here to give testimony in the applications of Perry H. Beeson and James W. Fleming et al. are you? A Yes, sir.
Q Does this relate to the father of Perry H. Beeson being absent in 1880? A Yes, sir.
Q What do you want to say about it, why was he absent about 1880?
A In 1878 he went to Wyoming.
Q Why did he go to Wyoming? A To improve his health, he thought

it would, in part.
Q He lived in the Cherokee Nation all the time until then? A He was admitted in the Cherokee Nation about 1874 I think.
Q And he went out for the benefit of his health? A That was as I understood it.
Q Did he leave his property back here? A He left his property.
Q And continued to have that property until he came back a few years after? A Yes, sir.
Q And then he died shortly after his return? A Yes, sir, he died just about a year.

F. M. Gonner, being sworn and examined by Commissioner Breckinridge, he testified as follows:
Q Give me your name, please? A F. M. Gonner.
Q Your age? A 49.
Q Your post office? A Fairland.
Q You are here to give additional testimony in the applications of Perry H. Beason and James W. Fleming et al. are you? A Yes, sir.
Q I mean the father of Perry H. Beason? A Yes, sir, his father.
Q Did you know his father? A Yes, sir.
Q Was he a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Did he live here about 1872 or 1873? A About 1876.
Q He left here about then? A About 1876.
Q Why did he leave, why was it generally understood? A For his health.
Q That the purpose and that propose alone? A Yes, sir.
Q He didn't dispose of his property? A No, sir.
Q Did he take all his family with him? A Yes, sir.
Q Did he have any minor children? A Yes, sir.
Q How long before he came back, several years? A About three or four.
Q Did he live long after he came back? A No, sir.
Q Was it generally understood that he was just out for the benefit of his health? A Yes, sir.
Q And hadn't abandoned the Cherokee Nation? A Yes, sir, I lived by Mr. Beason there ever since he married and I know that he left his farm and his cattle and part of his household furniture when he went he went to Wyoming, I know he left that much because I lived within two miles of him.
Q And he continued to possess his property and effects during the whole time of his absence? A Yes, sir.
Q And acted like a man who contemplated coming back? A Yes, sir.
Q And did come back? A Yes, sir.
Q And died within a year after he returned? A Yes, sir.
Mr. W.W.Hastings, representative of Cherokee Nation: This boy has lived here for the last fifteen years? A Yes, sir.
Q Continuously? A Yes, sir, I think he has.
Q Been recognized as a citizen here during that time? A Yes, sir.
Q Allowed to vote; has there been any question about his citizenship? A There was part of the time he has been out of here, but since they returned he hasn't been in doubt.
Commissioner Breckinridge: What did he go out for? A His health I suppose.
Q The young man go out for his health? A Yes, sir.
Q Did he ever go into business on the outside as far as you know? A Not that I know of.
Q Was he considered to have left the Cherokee Nation for good? A No, sir.
Q Simply on a visit? A Simply on a visit, this young man here his farm and effects is right there by me.
Mr. Hastings: How he came back in 1883 or 1884 or 1885? A Yes, sir.
Q How long did he remain at that he came back at the time his

father died? A About 8 or 12 months.
Q Then where did he go, when he left and went off somewhere else?
A He died.
Q I mean this young man? A He never remained out very long anywhere.
Q Where did he get A I don't know.
Q How long has he continued to reside up there this last time?
A I don't know, there hasn't been a twelve months but what I have seen him in the Territory since he returned.
Q Has he been living out? A I can't say whether he lived out or not, there was about 12 months I didn't meet him, only about 12 months I haven't met him in the Territory.
Q Is he married? A Yes, sir.
Q Where did he marry? A I can't tell you.
Q I am trying to get at whether he has been a continuous resident here or not? A There hasn't been twelve months since 1877 that I haven't met him in the Territory.
Commissioner Breckenridge: How long has this young man been living here continuously now as far as you know? A I think about 5 years.
Q Where was he before that? A He has been living here ever since he came from Wyoming I guess.
Q When was that? A I can't say.
Q Somewhere along in the eighties? A Somewhere along in the eighties.
Q Do you think he has been out except for brief intervals since that time? A No, sir.
Q Has he been out frequently? A Yes, sir.
Q Do you know what engaged his attention when he went out? A He went out for his health, he has been going up there and coming back for the last five years.
Q He would go back to Wyoming? A No, sir, somewhere in Missouri; one question I can answer; there hasn't been a 12 months I haven't met him in the Territory since 1887.

Perry H. Beason, being sworn and examined by Commissioner Breckinridge, testified:
Q Give me your name? A Perry H. Beason.
Q Your age? A 25.
Q Your post office? A Vinita.
Q You are the same Perry H. Beason who made application previously here before the Commission? A I am.
Mr. W.W.Hastings: How old are you? A 25.
Q What was your father's name? A H. V. Beason.
Q You were born in 1875? A Yes, sir.
Q When did you go out of the Cherokee Nation? A In 1878 I believe.
Q You were three years old? A Yes, sir.
Q When did you return that time? A I can't state just what time I returned then, I returned to live in 1885.
Q How long did you remain here in 1885 when you came back? A I have remained here always except about two months that I was under a physician's care at Kansas City for my health.
Q When you returned in 1885, tell me from that time where you lived, trace your history? A I lived in the Cherokee Nation always.
Q Where did you get your mail? A I have got my mail always in the Cherokee Nation except when I was in Kansas City or Noel, Mo.
Q When did you go to Noel, Mo.? A About three years ago.
Q Have you lived here continuously from 1885 until 1897, which was three years ago? A I did, yes, sir.
Q All the time inside of the Cherokee Nation? A Well, I went to school at Fort Smith.
Q Fort Smith, Arkansas? A Yes, sir.
Q How long did you go to school there? A I went to school about five months I believe.

Perry H. Beeson and James W. Fleming - S.

Q With the exception of that, which is not material, did you live here continuously from 1885 until 1897? A Yes, sir, I have.
Q You have never temporarily resided out other than what you have stated? A I never moved my family out except once and that was up here to Noel, Mo., and then it was for my health.
Q Except for those two exceptions then you have never resided out of here from 1885 to 1897? A No, sir, never resided a moment.
Q Since 1897 have you resided out of here? A No, sir, except in Noel, Mo., when I was there, after I returned that time I have never been out.
Q When did you return the last time? A When I went to Noel I went in 1899 and was up there two months.
Q That was for your health? A Yes, sir, I voted here during the time.

Bruce G. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 5th of October, 1900.

C. R. Breckinridge

Commissioner.

"R"

Cherokee D 378

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 25, 1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of Perry H. Beason for enrollment as a Cherokee citizen.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I. T., attorneys for applicants;
W.W.Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant was notified by registered letter February 10, 1902, that his case would be taken up for final consideration by the Commission on the 26th day of February 1902, - receipt has been acknowledged of the Commission's letter, and the applicant this day appears by his attorney's Mellette & Smith, Vinita, I. T., and by agreement with the Representatives of the Cherokee Nation this case is this day taken up.

ALICE CROCKETT, being first duly sworn, and being examined testified as follows:
BY MR. MELLETTE:
Q What is your name? A Alice Crockett.
Q What is your age? A 45 years old.
Q And live at Fairland? A Yes sir.
Q Do you know the applicant, Perry Beason? A Yes sir.
Q Who was his mother? A Mariah L. Flemings.
Q Is she the Mariah L. Flemings who is an applicant for enrollment as a Cherokee citizen? A Yes sir.
BY COMMISSION:
The attorney for the applicant requests that a copy of the testimony in the matter of the application of the applicant's mother, Mariah L. Fleming, D 339, be filed with and made a part of the record in this case, and same will be done.
The attorney for the applicant and the Representative of the Cherokee Nation submit this case to the Commission; same is ordered closed and reported to the Commission for final decision based upon the evidence now of record. The attorney for the applicant requests and will be granted 15 days in which to file brief in this case, one copy with the Commission and one copy with the Representatives of the Cherokee Nation.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27, 1902.

Commissioner.

.SR*

Cherokee R. 1584.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T. February 28, 1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application of James W. Fleming for the enrollment of himself, wife and step-son as Cherokee citizens.

Appearances:
Mr. Mellette, Mellette & Smith, Vinita I. T., attorneys for applicant, and W. W. Hastings, attorney for Cher. Na.

By Commission: The applicant was notified by registered letter February ~~28~~ 6th, 1902, that this case would be taken up by the Commission for final consideration on the 25th day of February 1902; he this day appears by his attorneys, Mellette & Smith, of Vinita, I. T.

ALICE CROCKETT, being sworn and being examined testified as follows:
BY MR. MELLETTE:
Q What is your name? A Alice Crockett.
Q Where do you live? A Fairland.
Q What is your age? A 48.
Q Do you know the applicant Mariah L. Fleming? A Yes sir.
Q What relation is she to you? A Sister.
Q What is your citizenship? A Indian by blood.
Q Are you on the 1880 roll? A Yes sir.
Q As a citizen of the Cherokee Nation? A Yes sir.
Q What is the blood of the applicant, Mariah Fleming, Cherokee or what? A Why it is Cherokee.
Q Are you her older sister? A I am her older sister.
Q And you are recognized as a citizen of the Cherokee Nation? A Yes, sir, I am on every roll that has been.
BY MR. HASTINGS.
Q I wanted to ask you where your sister was born? A Beatty's Prairie.
Q What was he maiden name? A Clark.
Q What kin is she to George Clark? A She is no kin, Tom Clark was her father; she is kin to the Thompsons, and the Lynchs; her grandmother was a Lynch.
Q Was she born before the war or since? A Before the war; she is older than I am.
Q Where was she immediately after the ~~x~~ war? A Why we went to the Chocta country.
Q And then came back here right after the war? A Yes sir.
Q Did she come back with you? A Yes sir.
Q When did she marry? A Well, I could not tell you; her first man- she was very young when she married, first man she married a full blood, Toy Squirrel.
Q She married a man named Beason didn't she? A Oh Beason, why she married him; they was married here at Fairland.
Q Where was this woman living in 1880 when that roll was made, 22 years ago? A She was in Wyoming; she was traveling for her husbands health.
Q About when did she go there? A I couldn't tell you because I don't know.
Q Your best judgment? A She was there about 5 or 6 years.
Q Where did her husband Beason die? A Fairland, he died, yes, he died at Fairland, he taken awful bad and died at Seneca but he was not there but a week.
Q Where did she marry this last husband Fleming? A Fairland.
Q Has she lived there with him ever since? A Yes, sir, living there with him now.

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J. M. BELL, being sworn and examined testified as follows:
BY MR MELLETTE:
Q What is your name? A J. M. Bell.
Q What is your age? A 70.
Q Where do you live? A About five miles from Savey's Ferry, in the Cherokee Nation.
Q Do you know the applicant Mariah L. Fleming? A Yes sir.
Q What do you know about her as to whether she is a Cherokee by blood or not? A She is a Cherokee.
Q By blood? A Yes sir.
Q You know her people do you and the members of her family? A Yes sir.
BY MR. Hastings:
Q You know where they were in 1880? A No sir, I do not; yes I know where the applicant was in 1880.
Q Where? A She was west here in Wyoming or some of those territories.
Q You know how long they stayed out there? A I do not know; her husband was there.
Q You think they stayed as much as 20 years? A No I don't think they did.
Q About how long you think they stayed? A They might have stayed 6 or 8 years, I don't know.
Q 8 or 10 years? A 6 or 8 or 10 years, I don't know.
BERRILLA ROGERS, being sworn and examined, testified as follows:
BY MR. MELLETTE:
Q What is your name? A Berrilla Rogers.
Q Where do you live? A I live at Ogeechee Station, two miles from Fairland.
Q Do you know the applicant Mariah L. Fleming? A Yes sir.
Q What relation is she to you? A She is an own niece of mine, sister's child.
Q The mother of Mariah Fleming was your sister? A My sister.
Q What was she, Cherokee or white? A Cherokee.
Q Are you yourself a Cherokee now? A Yes sir.
Q Recognized as such? A Yes sir.
Q Then what is the blood of the applicant Mariah L. Fleming, Cherokee or white? A She is a Cherokee by blood.
MR. HASTINGS waives cross-examination.
BY MR. MELLETTE: I want to file certified copy of a marriage license. (Hands paper to Commission)
BY COMMISSION: There is offered in evidence by the attorney for the applicant a certified copy of the Cherokee marriage license authorizing the marriage of James Fleming and Mariah Beason, and a certificate showing they were united in matrimony by Joseph Faulk, Minister of the Gospel, on the 17th day of March 1869; same is filed herewith.
MR. MELLETTE: This case submitted, and ask for 15 days in which to file brief.
BY COMMISSION: This case is submitted by the attorney for the applicant and the attorney for the Cherokee Nation, to the Commission, and same is ordered closed and reported to the Commission for final decision, based upon the evidence now of record. The attorney for the applicant requests and will be granted 15 days in which to file brief, one copy with the Representatives of the Cherokee Nation and one copy with the Commission.

D. 338-3.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green.

Subscribed and sworn to before me this February 27, 1902.

T. B. Needles.

I, Margaret Crutsinger, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes I made the foregoing copy and that same is a true and complete copy of the original transcript.

Margaret Crutsinger

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee I. T. May 8th 1902.

No . Cherokee D. 378.

In the matter of the application of Perry H. Beeson for enrollment as a citizen of the Cherokee Nation.

Brief on part of the Cherokee Nation.

The testimony in this case discloses the fact that the applicants name does not appear upon the roll of 1880 and the Cherokee Nation contends that the Commission has no authority or jurisdiction whatever to go behind this roll but that it is concluded by it. The act of Congress intended that there should be some basis or starting point to guide the Commission in its enrollment work and therefore confirmed the authenticated roll of Eighteen Hundred and Eighty. The testimony does not show that this mans name appears upon that roll neither does it show that he has subsequently been ~~admitted~~ readmitted to citizenship in the Cherokee Nation and for these reasons we submit that under the law that the applicant is not entitled to enrollment in the Cherokee Nation.

Respectfully submitted,

W W Hastings JCS

J. C. S.

Attorney for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Perry H. Beeson as a citizen by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 21,1900, Perry H. Beeson appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment, among others, of himself as a citizen by blood of the Cherokee Nation. The other parties to the application are differently classified, and are not embraced in this decision. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 4, 1900, and at Muskogee, Indian Territory, on February 25, 1902. On February 25, 1902 the evidence in the case of Mariah H. Fleming was made part of the record in this case.

The evidence shows that the said Perry H. Beeson is a Cherokee by blood; that he was born in the Cherokee Nation, and was taken from said nation by his parents about the year 1878, he being at that time about three years old. It further appears that this absence was caused by the ill health of his father, and that he returned to the Cherokee Nation when about nine or ten years old, and has resided therein continuously since that time.

The said Perry H. Beeson is identified on the 1896 Census Roll of the Cherokee Nation, and was a resident of said nation at the date of the application herein.

It is, therefore, the opinion of this Commission that Perry H. Beeson should be enrolled as a citizen by blood of the Cherokee Nation in accordance with the provisions of section twenty-one of the Act of Congress, approved June 28, 1898(30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,

this AUG 11 1902

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE APPLICATION OF PERRY H. BREESON. # 278.

-::----------:--

Perry H. Breeson, is the son of Sarah L. Fleming and a brother of Edward Breeson, whose application is Cherokee Nonfull. # 332, and as the only question in the case of the said Perry H. Breeson is that of temporary absence from the Cherokee Nation, which is fully briefed in the case of his mother and brother, Sarah L. Fleming and Edward Breeson, # 329, the case is submitted upon the brief filed therein.

Respectfully submitted.

Meredith S. Smith

Attorney's for Applicant.

C.D. 348

Perry H Beeson

vs

Cherokee Nation

(Copy)
Brief of
applicants

Mellett & Lincoln
attys. for applicants

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 378.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application of Perry H. Beeson for the enrollment of himself as a citizen by blood of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 53.

D 378

IN THE MATTER OF THE APPLICATION OF

Perry H. Beeson

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original application - September 21, 1900
B. Mem^o of application - " 21, 1900
C. Additional testimony - October 4, 1900
Notice of final consideration 3/26/02
E. Receipt for testimony

G. Order closing testimony, Feb. 25, 1902.
I. Brief of applicants
H. Original test from Maria L. Thurmy
case 9/18/02
Sept 12, 1902 Cancelled and t
ferred to
See Delaware Jackson 13

Cher D 379

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T., September 21, 1900.

IN THE MATTER OF THE APPLICATION OF JOHN W. HORN FOR THE ENROLLMENT OF HIMSELF, HIS WIFE AND CHILDREN, AS CHEROKEE CITIZENS.

The said John W. Horn, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A John W. Horn.
Q What is your age? A Fifty-five.
Q What is your post office address? A Chapel Hill, Texas.
Q What district do you live in? Or Do you live in Texas? A Yes, sir.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood or intermarriage? A By blood.
Q Does your name appear upon the authenticated roll of 1880? A It does not, but I have papers here.

THE COMMISSIONER: The applicant presents a certificate of admission, issued from the Executive Department of the Cherokee Nation under date of April 10, 1890, signed by E. J. Harris, assistant executive secretary, under the great seal of the Cherokee Nation, certifying that, among others, one John W. Horn was admitted to citizenship on the 12th day of January, 1888.

Q Are you the identical John W. Horn mentioned in this certificate? A I am.
Q For whom do you apply? A For myself and wife, Mrs. Lula Horn and my three children.
Q What is your wife's name? A Lula.
Lula E. Horn.
Q What is her age? A Thirty-four.
Q When were you married? A July 16th, 1882.
Q Was she a white person? A Yes, sir.
Q Have you any certificate of marriage? A Not with me but I filed the certificate with your Commission two or three years ago.
Q Is there anybody present who knows you were married? A My brother is present.
Q What does he know? A He knows that we have been living together as man and wife.

R. L. HORN, BEING SWORN AND EXAMINED BY THE COMMISSIONER, TESTIFIED AS FOLLOWS:

Q What is your name? A R. L. Horn.
Q What is your post office? A Ray Mills, Texas.
Q What is your age? A Twenty-nine.
Q Do you know John W. Horn? A Yes, sir; he is my brother.
Q Do you know his wife Lula E? A Yes, sir.
Q Do you know whether they are married or not? A I met them about eighteen years ago and she was introduced to me as his wife.
Q Have they been living together since that time as man and wife? A Yes, sir.

Q Recognized in the community where they lived and everywhere as man and wife? A Yes, sir.

Witness excused.

---o---

(Examination of applicant continued.)

Q You say you filed with the Dawes Commission a certificate of marriage? A Yes, sir.

Q What are the names of your children? A Pearl H.

Q How old is she? A Fifteen.

Q What is the next one? A Ruby I.

Q How old? A Seven years old.

Q The next one? A Mary M., five years old.

Q These children are alive and living with you? A Yes, sir.

Q Does your name appear upon any of the rolls of the Cherokee Nation? A I think it does on the 1894 roll.

1894 Roll, page 206, No. 1964, Jno. W. Horn, Cooweescoowee District.

1894 Roll, page 206, No. 1966, Ruby Horn, Cooweescoowee District.

1894 Roll, page 206, No. 1965, Pearl Horn, Cooweescoowee District.

Q The youngest child does not appear on any roll, having been born since the same was compiled. A Yes, sir.

BY MR. HUTCHINGS: (Counsel for Cherokee Nation)

Q What was the date of your marriage to your wife? A 1882, July 16th.

Q Where were you residing when you were admitted to citizenship?

A I was residing in Texas.

Q Have you resided there continuously ever since? A Yes, sir.

Q You have never resided in the Cherokee Nation at all, have you? A No, sir. Will you let me give my reason?

Q I just wanted the facts. You may explain afterwards. You were not born in the Cherokee Nation? A No, sir; I was born in Texas.

Q And you have lived in that state from the time of your birth until the present time? A Yes, sir.

Q That is all. Now, give your explanation.

A My explanation is this: At the time my citizenship was recognized I was a minister in the Methodist Church, and during the year 1883, during the latter part of that year just before the conference met, I made an effort to secure an appointment within the bounds of the Cherokee Nation. My presiding elder and bishop decided my services were more needed in Texas. I have filled appointments in churches at Galveston and Houston, and they have kept me there. I am now making efforts for employment on this conference. I have been willing and desirous to come all the while, but I have been subject to the appointment of the Bishop, and if you want information about that you can get it.

Q Have you any property in the Territory? A Yes, sir.

Q Improved property? A Well, one piece is improved, and the other is not. The town lots were improved.

THE COMMISSIONER: The name of John W. Horn appears upon the roll of 1894, as well as the names of his children, except his youngest child which was born since said roll was compiled. He presents a certificate of admission more particularly described in the testimony [illegible] [illegible]

on the 12th day of January, 1903. He avers that he was married to his wife Lula Z., a white person, in the year 1888, which date was prior to the date of his admission; consequently, the application for the enrollment of his wife Lula Z., will be rejected. Final decision as to the enrollment of the said John W. Horn, and the said children will be suspended, and their names will be placed upon a doubtful card, the testimony showing he is a resident of the State of Texas, and has been since he was admitted.

The undersigned, being sworn, states that he stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and other proceedings in the above application for enrollment and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 3rd day of October A. D. 1907.

Commissioner.

D379

Supl.-C.D. Book 379.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 28, 1902.

SUPPLEMENTAL in the matter of the enrollment of JOHN W. HORN, ET AL., as a citizens of the Cherokee Nation:

The applicant was notified by registered letter February 10, 1902, that his application for enrollment of himself and children would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory, on the 26th day of February, 1902, and that on said day, to-wit: the 26th day of February, 1902, this case was called and he appeared by his attorney C. E. Castle, Wagoner, Indian Territory, and moved that the same be continued until the 28th day of February, 1902. His request was complied with. The case has this day, to-wit: the 28th day of February, 1902, been called, and the applicant failed to respond either in person or by attorney and it is directed that the same be closed and reported to the Commission for a final decision based upon the evidence now of record.

Mr. W. W. Hastings, Cherokee Representative, present.

JOR

Commissioner.

Cherokee-D-379

7773

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of John W. Horn for the enrollment of himself and his three minor children Pearl M., Ruby L. and Mary M. as citizens by blood of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 21, 1900, John W. Horn appeared before the Commission at Vinita, Indian Territory and then and there made personal application for the enrollment of himself and his three minor children Pearl M., Ruby L. and Mary M. Horn as citizens by blood of the Cherokee Nation and for the enrollment of his wife, Lula Z. Horn, as a citizen by intermarriage of the Cherokee Nation. Lula Z. Horn has been listed upon Rejected Card Field No. 159.

It appears from the evidence in support of this application and from the records of the Cherokee Nation in possession of this Commission that John W. Horn was admitted to citizenship in the Cherokee Nation, January 12, 1883. He is identified on the 1894 Pay Roll of the Cherokee Nation and his children Pearl M. and Ruby L. Horn are identified on that roll. It further appears from the evidence that John W. Horn has resided in the state of Texas continuously since January 12, 1883, and that Pearl M., Ruby L. and Mary M. Horn are living with him. It does not appear that the applicants or any of them have ever resided in the Cherokee Nation or Indian Territory.

The law applicable to this case is found in Par. 9, Sec. 21, of the act of Congress, June 28, 1898(30 Stats., 495):

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

It is therefore the opinion of this Commission that John W. Horn, Pearl M. Horn, Ruby L. Horn and Mary M. Horn are not lawfully entitled to be enrolled as members by blood of the Cherokee Tribe of Indians in Indian Territory and that the application for their enrollment as such should be refused and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory.
This NOV 20 1902

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of JOHN W. KERN, ET AL., for enrollment as citizens of the Cherokee Nation, C. D. 379.

Protest of the Cherokee Nation.

The representatives of the Cherokee Nation, having read the motion for a new hearing in the matter of the application for the enrollment of John W. Kern and the members of his family, submit that the same should not be allowed, but should be denied, for the reason that there are no grounds whatever set up in the motion that would entitle the applicants to a new hearing.

Respectfully submitted,

Attorney for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES,

MUSKOGEE, INDIAN TERRITORY.

In re Application of John W. Horn et als. for Citizenship in the Cherokee Nation.

D. 379.

MOTION FOR NEW HEARING ON APPLICATION.

Comes now John W. Horn, principal applicant, for himself and for his minor children, to wit: Pearl M., Ruby L. and Mary M. Horn, by his attorney, C. E. Castle, and hereby moves that the decision of said Commission to the Five Civilized Tribes, dated November 20th., 1902, rejecting the application of said John W. Horn for the enrollment of himself and his three minor children aforesaid as citizens by blood of the Cherokee Nation, and by the Honorable Secretary of the Interior affirmed on the 26th. day of December, 1902, be now annulled and set aside; and that this cause be re-instated and set down for further hearing; and that said principal applicant be allowed to offer further and additional evidence tending to establish his rights in the premises and also the rights of his said minor children to enrollment as citizens of the said Cherokee Nation.

And in support of this his motion your applicant respectfully shows to said Commission and to the Honorable Secretary of the Interior the following facts.

1. That he is now a resident of Bakersfield, California; that he is actually and actively engaged in his work and labor as a minister of the Gospel of the Methodist Episcopal Church, South; and that he has been so engaged for more than twenty (20) years in the said State of California and the State of Texas.

2. That he hereto attaches affidavit of this applicant solemnly affirmed and subscribed to on the 21st. day of October, 1902, same being marked EXHIBIT A and hereby made a part of this motion.

3. That your petitioner believes he can show by competent, legal and satisfactory evidence that he is, and has ever been, entitled under

the law as now construed by said Department of the Interior to enrollment as a citizen of said Cherokee Nation.

Your petitioner further prays a reconsideration of his application after he shall have been allowed to adduce further evidence in his behalf therein on the ground that he and in good faith maintained his rights and kept intact his citizenship in said Cherokee Nation by complying with all laws of said nation to the present day, and that the Act of Congress approved June 28th., 1898, or any subsequent Act of Congress does not bar this applicant from sharing in the lands and moneys of said Cherokee Nation or Cherokee Tribe of Indians.

And your petitioner would respectfully call your attention to the fact that the decision herein rendered is inconsistent and irreconcilable with the decision of the said Interior Department of March 15th, 1903, on the application of Joseph D. Yeargain et al, for enrollment as citizens of the Cherokee Nation; said decision being the opinion of the Assistant Attorney General.

Your petitioner further respectfully refers your Honorable Commission to the decision of the Department of the Interior upon the application of Martha Cobb Clark, render March 17th., 1903.

And your petitioner would now show that these decisions were rendered subsequently to that rendered against him on his application.

Wherefore, your petitioner, this applicant for himself and said minor children, prays that he be granted a new hearing on his application, and that he be permitted to appear in person and with other witnesses to offer evidence in his behalf herein at such time and place as this Honorable Commission may order.

John W. Horney

By _____
His Attorney.

C. E. Castle, being first duly sworn and on his oath says that he has read the above and foregoing motion for a hearing on the application of John W. Horney et als., and that the statements therein are correct and true as he verily believes.

_____

Subscribed and sworn to before me this [illegible] day of March, 1906.

My commission expires July [illegible] 1906. _____

COPY.

EXHIBIT A.

The State of Texas,)
County of Burleson.)

To whom it may concern

On this day personally appeared Rev. John W. Horn who solemnly affirms that he is by blood right a citizen of the Cherokee Nation; that he is an itinerant ordained minister of the Gospel in the Methodist Episcopal Church, South, and subject to the appointment of the Bishop of said church. That for many years he has owned property in the Cherokee Nation and considered it his home. That he had applied for work in the Cherokee Nation about 16 years ago when Bishop Pierce Had charge of the Indian Mission Conference, but failed to get it. That he again applied for work about 5 years ago but failed. That he renewed his application about one year ago immediately after his name and the names of his wife and children were entered on the dawes roll of said Nation and that Bishop Key replied, "I cannot allow you to transfer to the Indian Mission Conference, unless you come with the definite understanding that you are to accept any appointment in the conference and select any particular part of the work or territory as your field of labor". And that the Indian Mission Conference takes in all xxx of the Indian Territory & Oklahoma Territory, and that he had explained to Bishop Key that he desired to protect the citizenship interests of himself and family in the Cherokee Nation. He then decided to let the matter rest and return to the equitable jurisdiction of the Dawes Commission or whatever court may have charge of the final adjustment of this matter, to raise above technicalities and recognize him and his family as legal citizens of the Cherokee Nation.

(Signed) John W. Horn

Subscribed to and sworn before me this 31st. day of October, 1901.

(SEAL)

John McCowen
Co. Clerk Burleson Co. Texas.

IN RE APPLICATION OF

John W. Horn et als. for Enroll-

ment? Cherokee Nation, Ind. T.

MOTION FOR NEW HEARING.

C. E. Castle, Atty. for Applt.

Vanoor, Ind. T.

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-379.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, November 25, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated November 20, 1902, rejecting the application of John W. Horn for the enrollment of himself and his three minor children, Pearl M., Ruby L. and Mary M. Horn as citizens by blood of the Cherokee Nation.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

Enc. H-147.

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON W. TYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 379.

Muskogee, Indian Territory, January 6, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated November 20, 1902, rejecting the application of John W. Horn for the enrollment of himself and his three minor children, Pearl M., Ruby L. and Mary M. Horn, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on December 26, 1902.

Respectfully,

Acting Chairman.

CORNELIUS E. CASTLE,
ATTORNEY-AT-LAW.
WAGONER, INDIAN TERRITORY.

March 24th., 1905.

Hon. W. W. Hastings, Cherokee National Attorney,
Tahlequah, Ind. T.

Dear Sir:-

I herewith hand you original, and copy of, motion for new hearing in matter of the application of John W. Horn et als. for enrollment as citizens by blood of the Cherokee Nation, and will thank you to endorse on original your acceptance of service of notice of same and receipt for copy, handing motion to the Dawes Commission to be filed.

If you resist the motion I will thank you to indicate at what time it will be convenient for you to take it up at Muskogee. I will be there on next Wednesday, 29th. inst., and if that day would suit you it will be convenient for me.

Very respectfully,

C. E. Castle.

(C O P Y)

Refer in reply
to the following
Land
85792-1904
78033-1905

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. October 6, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of December 7, 1904 (I.T.D. 11826), there is inclosed a report from the Commissioner to the Five Civilized Tribes, transmitting motion of C. E. Castle, attorney for John W. Horn , et al., to have reopened for further hearing Cherokee enrollment case of John Horn, et al., applicant for enrollment as citizens y blood of the Cherokee Nation. A copy of the motion has been served on the attorney for the Cherokee Nation. The Commissioner also enclosed protest of the Cherokee Nation against the granting of the motion. The record in the case is also enclosed.

November 20, 1902, the Commission to the Five Civilized Tribes rejected the application for the enrollment of John W., Pearl M. Ruby L., and Mary M. Horn, as citizens by blood of the Cherokee Nation, and the Department approved the Commission's decision December 26, 1902.

September 21, 1903, the Commission to the Five Civilized Tribes requested that the Horn case, among others, be remanded for readjudication, in accordance with Departmental decision in the Yeargan case.

March 5, 1904, (I.T.D. 7721-1902), the Department advised the Commission that it did not consider the facts warranted the remanding of this case in view of the opinion of the Assistant Attorney General on December 29, 1903, in the Allie Williams case. A motion was subsequently filed for the reopening of the Horn case, which motion was denied by the Department December 7, 1904.

In view of the previous action in the case, the Commissioner does not consider the facts set forth in the motion sufficient to warrant the Department in directing a rehearing, and he recommends that the motion be denied.

Very respectfully,

C. F. Larrabee

Acting Commissioner

GAW-D

D. C. 49925-1905
I.T.D. 13264-1905

Y.P.
FHE

L R S

DEPARTMENT OF THE INTERIOR

WASHINGTON.

October 28, 1905.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

October 6, 1905, the Indian Office submi ted your report of September 26, 1905, transmitting a motion for rehearing on behalf of the applicants in the Cherokee enrollment case of John W. Horn, for himself and minor children, Pearl M., Ruby L., and Mary M. Horn.

Pearl M. Was born about 1885; Ruly L., about 1893, and Mary M. about 1895.

December 26, 1902, the Department affirmed the decision of the Commission to the Five Civilized Tribes adverse to the applicants, and on December 7, 1904, a motion for rehearing was denied.

The motion now under consideration presents no question of law or fact not previously considered. It is shown by the testimony taken in 1900 that the principal applicant was admitted to citizenship in the Cherokee Nation January 12, 1883, and that he had resided in Texas continuously since that time; also that said

children had resided with him. It does not appear that any of the applicants have ever resided in the Cherokee Nation or Indian Territory.

It is shown by the motion now presented that Mr. Horn is residing in California. As he is, and has been for more than twenty years, a minister of the Gospel, of the Methodist Episcopal Church South, and subject to the appointment of the bishop of such church, and as he made several efforts to be assigned to the Indian Territory, it is contended that he is excused from residence in the Cherokee Nation.

The Cherokee act of December 4, 1904, provided that all persons who had been readmitted to citizenship should return to the Nation before June 5, 1895. It was stated in the opinion of the Assistant Attorney General of June 15, 1905, in the case of Alice L. Owen, et al., which was approved by the Department, that the object of said act of 1894 "was to require actual and personal return to the Nation of those upon whom citizenship had been conferred, not resident in it at or after such recognition."

The motion is denied. A copy of Indian Office letter submitting your report is inclosed.

Respectfully,

(Signed) E. A. HITCHCOCK
Secretary

1 inclosure

W.R.

REFER IN REPLY TO THE FOLLOWING:
Cherokee R-781.

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

Muskogee, Indian Territory, November 7, 1905.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that this office is in receipt of Departmental letter of October 28, in which the motion filed in behalf of applicants to have reopened the Cherokee enrollment case of John W. Horn, et al., is denied.

For your information, there is inclosed herewith a copy of Departmental letter referred to.

Respectfully,

Commissioner.

Incl. S-101

APPLICA

John W. Horn Jr.

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 21, 1900
B. Memo of application - " 21, 1900
C Notice of final consideration 2/26/02
D Order closing testimony, Feb. 28, 1902.

Dawes - E

See Cherokee Jacket # 59

Cher D 380

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I.T. September 21, 1901.

IN RE MATTER OF THE APPLICATION OF JULIA A. MOORE FOR THE ENROLLMENT OF HERSELF AND CHILDREN AS CHEROKEE CITIZENS.

The said Julia A. Moore, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Julia A. Moore.
Q What is your age? A Thirty-two.
Q What is your post office address? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q By blood A Yes, sir.
Q What degree of blood do you claim? A My mother is half.
Q Is your father a white man? A Yes, sir.
Q For whom do you apply for enrollment? A Myself and four children.
Q What is the name of your father? A Jack Martin.
Q What is the name of your mother? A Her maiden name was Nancy Tayler.
Q Are you married? A Yes, sir.
Q Is your husband living? A My first husband is dead.
Q What was the name of your first husband? A Edward Nelson.
Q Was he a white person? A Yes, sir.
Q What are the names of your children?
A Edward J.
Q How old is he? A Ten years old.
Q What is the name of the next one? A Arthur, eight years old.
Q The next one? A Myrtle Ellen, six years old.
Q These children are all Nelson? A Yes, sir; and John Adam is three in October.
Q These four children. Are these children all alive and living with you at this time? A Yes, sir.
Q Your husband Edward Nelson is dead? A Yes, sir.
Q You have married since? A Yes, sir.
Q What is your name now? A Moore.
Q Your maiden name, as I understand, was Martin?
A Yes, sir.
Q How do you claim citizenship? A I was readmitted in 1890.
Q Your name does not appear on the roll of 1880 then? A No, sir.

THE COMMISSIONER: The applicant presents a certificate of admission purporting to be a certified act of the Cherokee Nation signed by W. S. Agnew, president pro tem of the senate; E. F. Lamar speaker; approved December 15, 1890 by J. P. Mayes, Principal Chief, certifying that among others one Julia A. Nelson was admitted to citizenship on the 15th day of December, 1890; the said Act having been approved by the Principal Chief J. S. Mayes upon that date.

Q Are you the identical Julia A. Nelson admitted in this certificate? A Yes, sir.

THE COMMISSIONER: And also that her children Rosa Nelson, who is now dead, and Edward J. Nelson were admitted to citizenship. Is the Edward J. Nelson mentioned in this certificate the identical Edward J. Nelson for whom you apply? A Yes, sir.

Q What is your husband's given name? A Joseph.

Q You aver that since you were admitted by this act, that you were married to one Joseph Moore, a white person. When were you married to Joseph Moore? A In 1898.

Q Your three children, Arthur, Myrtle E. and John A. were born since you were admitted in December, 1890? A Yes, sir.

Q Were you enrolled in 1896? A No, sir.

Q Your name was not on the Census Roll of 1896? A No, sir.

Q When did you remove to the Cherokee Nation? A I came here in 1896.

Q Where from? A California.

Q You were living in California at the time you were admitted? A Yes, sir.

Q Have you been living here continuously since the year 1896, you and your children? A Yes, sir; except when my husband died, we took him to Michigan to bury him, and I was there most a year.

Q Didyou draw your strip money in 1894? A Yes, sir.

Q What district did you draw itin? A In Cooweescoowee.

Q Did you draw it? A It was drawn for me yes, sir.

Q Who drew it? A John White, my step-father.

Q Then your name is not on the roll at all.

THE COMMISSIONER: The name of Julia Ann Moore, nee Nelson, is not found on any of the rolls of the Cherokee Nation. She presents a certificate of admission in due form certifying that she and her children Edward J., who was a minor at that time, were admitted to Cherokee citizenship by special act of the Cherokee Council, approved December 15th, 1890. She avers that she removed from the State of California, where she then resided, to the Cherokee Nation in the year 1896, bringing her child Edward J. with her. She avers that she and her children then resided in the Cherokee Nation from the year 1896 to the present time.

The Act of the Cherokee Council approved December 18th, 1894, provides that "All persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation, are required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act, or from the date of readmission, or no rights whatever shall accrue to such persons by reason of such readmission, PROVIDED: that nothing in this act shall bar minors and orphans." The applicant clearly comes under the provisions of the said act. Her child Edward J., being a minor, and having been ~~readmitted~~ admitted as hereinbefore stated, will be duly listed for enrollment as a Cherokee citizen by blood. The said applicant, Julia A. Moore, nee Julia Nelson, she having married one Joseph Moore a white person in the year 1898, and her children born since her readmission, to-wit: Arthur, Myrtle and John A., will be placed upon a deubtful card and final judgment as to their enrollment will be suspended.

The undersigned being sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment, and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

Mrs. J. Mellhes

Subscribed and sworn to before me this 3rd day of October A. D. 1900.

C W Breece

Commissioner.

9370

Cherokee D-380.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 31, 1901.

In the matter of the application of Julia A. Moore et al. for enrollment as citizens of the Cherokee Nation.

Additional testimony on behalf of the applicants:

Appearances:
Applicant present in person;
Cherokee Representative present.

NANCY WHITE, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Nancy White.
Q How old are you? A I am 63.
Q What is your postoffice? A Vinita.
Q In what district do you live? A I live in Delaware.
Q You want to give some evidence about the applicants here, Julia Moore here, do you now? A Yes, sir, and Mrs. Taft.
Q Have you made application for enrollment as a Cherokee yourself?
A Yes, sir, long ago.
Q It appears that Julia A. Moore applied on the 2nd day of last September for enrollment for herself and children? A Yes, sir.
Q Is that the lady sitting here (indicating Mrs. Julia A. Moore)?
A Yes, sir.
Q She is your daughter? A Yes, sir.
Q And you want simply to have her identified in the testimony as your daughter? A Yes, sir.
Q Well, your present husband, or your last husband, wasn't her father? A No, sir, that wasn't her father.
Q What was the name of her father? A Jack Martin.
Q And how old do you call your daughter, Mrs. Moore? A 32.
Q Then you have another daughter you want to identify? A Yes, sir, Mrs. Taft.
Q Mary J. Taft? A Yes, sir.
Q That the lady sitting there (indicating)? A Yes, sir.
Q What was her name? A Martin.
Q She was also the daughter of your husband Martin? A Yes, sir.
Q Do you claim to be a Cherokee by blood yourself? A Yes, sir.
Q What was your husband, Martin, a white man? A Yes, sir, he was a white man.
Q Were you ever married before you married Martin? A Yes, sir, I married John White.
Q He was your first husband? A No, sir, he was my last husband.
Q I ask you if you were ever married before you married John Martin?
A No, sir, he was my first husband.
Q Is he dead? A Yes, sir, he had been dead a good while.
Q Have you and he lived together from the time you were married until he died? A Yes, sir.
Q Where were you married?, A In California, Nevada City.
Q Who married you? A I can't tell you, it has been so long, in '55 we were married.
Q Do you remember what denomination he belonged to? A I think he was a Methodist.
Q When did he die, this husband Martin of yours? A He has been dead about 10 or 11 years ago.
Q You lived with him down to that time? A Yes, sir, he died there.
Q When did you come back from California? A I got back the other day.
Q But you were married to Mr. Martin in '54? A Yes, sir.
Q When did you get back after your marriage in '54 to Mr. Martin?
A Well I had been married about thirty years, after I was married to Mr. Martin.

Q Before you came back to the Cherokee Nation? A Yes, sir. along in the eighties sometime.

Q Have you lived here ever since? A Yes, most of my time, yes.

Q You say you just lately came back from California? A Yes, we went out there last fall for our health and Mr. White died out there my last husband.

Q How long had he been there? A We had been there but a little while. We went in October.

Q Where have you been making your home: in California? A No, I have been making my home right here in this country.

Cherokee Representative: Did Mrs. Moore and your other daughter who is present here permanently locate in the Cherokee Nation before the year 1894? A Yes, sir.

Q When did they first move to the Cherokee Nation prior to 1894; Mrs. Moore? A She came when I did.

Q Well, when did you come? A I came in the eighties.

Q Don't it a fact that Mrs. Moore moved from California to the Cherokee Nation in 1896? A Yes, it may be; we all came back together here.

Commissioner: A copy of this testimony will be filed in Cherokee straight case No. 3406, the same being the case of John White et al., and in Cherokee Doubtful case D-380, the same being the case of Julia A. Moore et al., and in Cherokee Doubtful case D-357, the same being the case of Mary J. Taft et al.

Commissioner: You state now your husband, John White, is dead at this time? A Yes, sir.

Q When did he die? A Last May, the 20th day of May.

Q He died in California? A Yes, sir.

Q Where he had gone for his health? A Yes, sir.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 4th of November, 1901.

Commissioner.

Supl.-C.D.#330.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

SUPPLEMENTAL in the matter of the enrollment of JULIA A. MOORE, ET AL., as citizens of the Cherokee Nation:

The applicant was notified by registered letter on the 10th day of February, 1902, that this case would be taken up for final consideration by the Commission on the 26th day of February, 1902. Receipt has been acknowledged of the Commission's letter, and applicant appears in person and by her Agent, J.R. Sequichie.

Mr. W. W. Hastings, Cherokee Representative, present.

Commission of Mr. Sequichie: Do you desire to make any statement in this case?
Mr. Sequichie: No, sir.
Q Do you submit it to the Commission? A Submit it.

Commission: The agent for the applicant and the representative of the Cherokee Nation present submit this case to the Commission for final consideration and the same is ordered closed and reported to the Commission for final decision, based upon the evidence now on file.

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J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in this application on this day and that the foregoing is a true and correct transcript of his stenographic notes thereof.

J O Rossen

Subscribed and sworn to before me this March 1, 1902.

Commissioner.

Cherokee D-380.

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

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In the matter of the application of Julia A. Moore, Arthur Nelson, Myrtle E. Nelson, John A. Nelson and Charles L. Moore as citizens by blood of the Cherokee Nation.

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DECISION.

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The record in this case shows that on September 21, 1900, Julia A. Moore appeared before the Commission at Vinita, Indian Territory, and made application, among others, for the enrollment of herself and her four minor children, Edward J. Nelson, Arthur Nelson, Myrtle E. Nelson and John A. Nelson, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 31, 1901. The other party to the application is differently classified, and is not embraced in this decision.

The evidence in this case shows that Julia A. Moore was admitted, under her former name of Nelson, to citizenship in the Cherokee Nation by the duly constituted authorities of said Nation on December 15, 1890.

The evidence further shows that the principal applicant was twenty-two years of age at the date of her admission to citizenship.

It is further shown that she removed to and settled in the Cherokee Nation in the year 1896 and has been a continuous resident therein from that time up to and including the date of this application. It is further shown that her former husband, one Edward Nelson, the father of Arthur, Myrtle E. and John A. Nelson, is dead and, subsequent to his death, the principal applicant married one Joseph Moore in 1898. As a result of that marriage, Charles L. Moore, the minor applicant herein, was born. It further appears that Arthur Nelson and Myrtle E. Nelson were born on October 12, 1892, and June 4, 1894, and John Adam Nelson and Charles L. Moore were born on October 22, 1897, and October 3, 1900, respectively. The above named children are duly identified by affidavits of birth, made a part of the record herein.

Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495) refers to the Cherokee Roll of 1880, and provides that this Commission --

> "shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, - - "

The Act of the Cherokee National Council approved December 4, 1894, provides:

> "That all persons who have been or may hereafter be re-admitted to citizenship in the Cherokee Nation are hereby required to permanently locate

within the limits of the Cherokee Nation within six months from the passage of this act, or from the date of re-admission of persons hereafter re-admitted, or no rights whatever shall accrue to such persons by reason of such re-admission: provided, that nothing in this act shall bar minors and orphans".

Arthur Nelson and Myrtle E. Nelson were born subsequent to the re-admission of their mother, and prior to December 4, 1894, the date of the Cherokee law above referred to. Therefore, they do not come within the purview of the law above quoted. John A. Nelson and Charles L. Moore, having been born subsequent to the mother's removal to the Cherokee Nation, are considered to have acquired no rights, the said mother failing to comply with the provisions of the Act of the Cherokee National Council above quoted.

It is, therefore, the opinion of this Commission that the application for the enrollment of Julia A. Moore, John A. Nelson and Charles L. Moore as citizens by blood of the Cherokee Nation should be denied; and it is further the opinion of this Commission that the application of Arthur Nelson and Myrtle E. Nelson for enrollment as citizens by blood of the Cherokee Nation should be granted, and it is, therefore, so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Acting Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 28 1903

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Vinita, I.T., February 2nd., 1903.

IN THE MATTER OF THE APPLICATION OF JULIA A. MOORE FOR THE ENROLLMENT OF HER TWO MINOR CHILDREN, ARTHUR AND MYRTLE E. NELSON, AS CITIZENS OF THE CHEROKEE NATION.

D--380

PROTEST OF THE CHEROKEE NATION.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission granting the application for the enrollment of the two children above named, and asks that the same be forwarded to the Secretary of the Interior for review.

The only question involved in this case is the construction of an Act of the Cherokee National Council approved December 4th.,1894, which provides:

"All persons who have been, or may hereafter "be re-admitted to citizenship in the Cherokee Nation, "are hereby required to permanently locate within the "limits of the Cherokee Nation within six months from "the passage of this Act, or from the date of re-admis-"sion of persons hereafter re-admitted, or no rights "whatever shall accrue to such persons by reason of "such re-admission; provided that nothing in this "Act shall bar minors and orphans".

What does the last clause meanwherein it is said, "That nothing in this Act shall bar minors and orphans"?

The evidence in this case shows that Julia A. Moore, the mother of the applicants, was admitted to citizenship in the Cherokee Nation on December 15th., 1890, and it further shows that she removed to and settled in the Cherokee Nation in the year 1896, too late under the Act of December 4th., 1894, to retain her own citizenship. The two children, Arthur and Myrtle E. Nelson, admitted by this Commission, were born on October 12th., 1892 and June 4th., 1894, respectively, while the mother was a citizen and resident of the State, and before her removal to the Cherokee Nation, where she never in fact at any time acquired citizenship. She never was a citizen of the Cherokee Nation. Hence we contend that if the mother was never a citizen of the Cherokee Nation, that she had no citizenship rights to confer upon these two applicants. The Commission in this very

decision decides that the mother is not entitled to be enrolled as a citizen of the Cherokee Nation; but if she was not entitled because of her non-residence, we contend that these children are also not entitled to be enrolled.

But what was intended by the clause in the above Act: "That nothing in this Act shall bar "minors and orphans"?

We contend that inasmuch as there is no comma after the word "minors", that it was the intention of the Cherokee National Council to make the conjunction "and" mean "who are". In other words, that was the the intention of the Cherokee Council to provide that nothing in this Act shall bar minors who are orphans as well.

Can it be said that an orphan who was of age, say more than twentyone, could always live in the state, and not be exempt from the provisions of the above Act of the National Council? If it exempts both minors and orphans, any orphan, it matters not what his age may be, is exempt from the provisions of this Act; and if this construction was not intended to be placed upon this Act, why was the word "orphan" used at all?

Again, it certainly was not intended that the residence and citizenship of the child should not follow the parent. This is fundamental and universal law everywhere; and the Act of Congress dated June 28th., 1898 so provides. Now, if the admission of the parent carries with it the admission of the child, (and this has been decided by the Commission in cases too numerous to mention), why on the other hand would not the rejection of the parent carry with it the rejection of the child. We think there is but one reasonable construction that can be placed upon the above Act, and that is in order to be exempt from the provisions of the Act of June 4th., 1894, that the applicant must both be a minor and an orphan.

Respectfully submitted,

W W Hastings

Attorney for the Cherokee Nation

Cherokee D 380.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee I. T. October15th 1903.

In the matter of the application for the enrollment of Julia A Moore et al as citizens of the Cherokee Nation.

Brief and Argument in behalf of the Cherokee Nation.

The recordin this case shows that Julia A Moore was admitted to citizenship by the Cherokee National Council on December 15, 1890; that she removed to and settled in the Cherokee Nation in 1896 or after the expiration of the time allowed her for removal to and permanently locating within the limits of the Cherokee Nation by the act of the Cherokee National Council approved December 4th 1894 and the Cherokee Nation contends that because of her failure to comply with this act of the Cherokee National Council which was sustained by the Department in the case of Berley E Gouy et al Cherokee D # 331 that these applicants should not be enrolled as citizens of the Cherokee Nation.

The Commission to the Five Civilized Tribes rejected the applicants in this case and the Commissioner of Indian Affairs on June 1st 1903 recommended the disapproval of the Commissions action expressing a belief that there was a distinction between the word "Admitted" and "Readmitted", the latter word being used in the act of December 4th 1894. Upon this ground alone the Commissioner of Indian Affairs recommended the disapproval of the findings of the Commission in this case.

Later on August 28th 1903 referring to a report from the Commission to the Five Civilized Tribes dated July 27, 1903, the Commissioner of Indian Affairs concluded "That the words admission and readmission as usedin connection with Cherokee citizenship should be held to mean one and the same thing as suggested by the Commission."

In other words the Commissioner of Indian Affairs on August 28th 1903 (or about three months after June 1, 1903 at which time he recommended the disapproval of the findings of the Commission) endorsed the report of the Commission to the effect that there should be no distinction between the words "admitted" and "readmitted" as used in connection with Cherokee citizenship matters.

If this report is sustained by the Interior Department and the Interior Department has sustained the act of December 4th 1894 in the case of Berley E Geary et al Cherokee D 331 and in the case of Allie Williams Cherokee # 3508 then we can not see upon what theory that it can be held that Julia A Moore is entitled to citizenship in the Cherokee Nation because it is admitted that she did not remove to and permanently locate within the limits of the Cherokee nation within six months from December 4th 1894 or by June 4th 1895 because the testimony shows that she removed to the Cherokee Nation in 1896.

In addition to the report of the Commission to the Five Civilized Tribes and that of the Commissioner of Indian Affairs as to the interchangeable use of the words "Admitted" and "readmitted" we desire to add that the word "Admitted" had always been construed to mean "Readmitted by the Cherokee authorities, because the Cherokee authorities have always contended that they had no constitutional right to "Admit" any person but only the right to "Readmit" them. The only constitutional authority given the National Council with reference to citizenship is found in Article I Section II of the Cherokee Constitution which provides that the National Council shall have power to readmit by law and not "Admit" by law:

"Provided, nevertheless, that the National Council shall have power to <u>READMIT</u> by law, to all the rights of citizenship, any such person or persons who may, at any time, desire to return to the Cherokee nation on memorializing the National Council for such <u>READMISSION.</u>"

It is the contention of the Cherokee Nation that all persons entitled to citizenship in the Cherokee nation were either themselves or through their ancestors once citizens of the Cherokee nation and that the word "Readmit" is the proper word to use but in as much as the Commissioner of Indian Affairs concurs with the views of the Commission finding that the two words have been used interchangeably and we think that the applicants herein not having complied with the act of December 4th 1894, which as above shown has been repeatedly sustained by the department that the findings of the Commission should be sustained in this case and the applicants refused enrollment.

Respectfully,

W W Hastings jcs

Attorney for the Cherokee Nation.

IN THE DEPARTMENT OF THE INTERIOR.

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In re Application of)
Julia A. Moore, et al., for)
enrollment as Cherokee citizens.)

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MOTION FOR REVIEW.

Now come the attorneys for the applicants in the above entitled cause and move that the decisions of the Department and Commission herein be set aside and a new hearing granted and had for the following reasons:

1. As to the minor applicants, Arthur and Myrtle K. Nelson, it appears that their mother, Julia A. Moore, was admitted to citizenship in the Cherokee Nation on December 15, 1890, under the name of Julia A. Nelson. Between the date of her admission and June 5, 1895, (the date when expired the limitation fixed by the Cherokee Act approved December 4, 1894) applicants Arthur and Myrtle K. Nelson were born. Under the opinion of the Assistant Attorney-General in the Stonewall J. Rogers case the mother became a citizen of the Cherokee Nation on the day of her admission and she continued to be a citizen of the Cherokee Nation until December 5, 1895. While such citizen of the Nation these children were born, and by virtue of their mother's citizenship at that time became citizens of the Cherokee Nation at their birth. The Act of December 4, 1894, by its express provision does not apply to minors. They removed to the Cherokee Nation before the passage of the Act of Congress approved June 28, 1898, and are still residents of the Cherokee Nation, and we respectfully submit that they must now be enrolled under the decision in the Stonewall J. Rogers case.

2. We respectfully ask a reconsideration by the Assistant Attorney-General of his opinion rendered herein March 12, 1908, for the following reasons:

The principal applicant and her younger two children were held to be not entitled to enrollment under that opinion, for the sole reason that the mother did not return to the Cherokee Nation before June 3, 1895, -- they were rejected because of the Cherokee Act of December 4, 1894, and solely because of that act. I desire to call attention to the fact that the Act of December 4, 1894, in terms applies solely to persons readmitted. I am aware that the Assistant Attorney-General has held that the words "admitted" and "readmitted" were used interchangeably by the Cherokee Council in admitting persons to citizenship.

As I understand it the reasons upon which the opinion of the Assistant Attorney-General is based are substantially these: that in ascertaining who are included within the term "readmitted", as used in the Act of December 4, 1894, it has been found that the Cherokee National Council in admitting or readmitting persons to citizenship did not, as a rule, use those words in accordance with their strict meaning; that sometimes persons were "readmitted" to citizenship who had never theretofore been citizens, whereas in some cases persons "admitted" to citizenship had theretofore been citizens; that because of this interchangeable use of these two words "admitted" and "readmitted", when it became necessary to find who were embraced within the term "readmitted", as used in the Act of December 4, 1894, the Assistant Attorney-General was of opinion that the Department was not necessarily limited to the meaning of the word "readmitted", but that that word included also persons whom the Cherokee Nation Council had actually readmitted by the use of the word "admitted."

For the purpose of this case I am not asking a reconsideration of that opinion, but I do desire the Assistant Attorney-General to consider the act of the Cherokee National Council admitting Julia A. Moore. That act is as follows:

"An Act to admit John D. Tully and others to citizenship in the Cherokee Nation.

Be it enacted by the National Council: that John D. Tully, x x x son and grandchildren of Rebecca Coleman Tully formerly a resident of Goingsnake District and a Cherokee by blood be and they are hereby readmitted to all the rights and privileges of citizenship in the Cherokee Nation.

Be it further enacted: That William Woodard be and he is hereby readmitted to all the rights and privileges of citizenship in the Cherokee Nation by virtue of his Cherokee blood.

Be it further enacted: That Nancy Martin, nee Taylor, x x x Julia A. Nelson (daughter) and her children Rosa Nelson age 8 years Edward J. Nelson 6 mos x x x all being sons and daughters and grandchildren of Nancy Martin, that they be and are hereby admitted to all the rights and privileges of citizenship in the Cherokee Nation by virtue of their Cherokee blood.

Be it further enacted: That Frances M. Jones and Dimer W. Reeves be and they are hereby readmitted to citizenship in the Cherokee Nation."

It will, therefore, be seen that whatever may have been the general custom of the Cherokee National Council in the use of the words "admitted" and "readmitted," in this particular case the Council took the pains to distinguish. In the same act we find the Council "admitting" certain persons and "readmitting" certain other persons. That the Council used this word "readmitted" intentionally appears in the first part of the act wherein it speaks of John D. Tully and others as the "son and grandchildren of Rebecca Coleman Tully formerly a resident of Goingsnake District," and then proceeds to "readmit" those persons to citizenship. It would seem from this that the Council at least on this particular occasion admitted to citizenship those who had not theretofore been citizens, whereas it readmitted to citizenship those persons and their descendants who had theretofore been citizens and residents of the Cherokee Nation, but who had forfeited their rights of citizenship by subsequent nonresidence.

We, therefore, submit that whatever may have been the general custom of the Nation in the use of these words "admitted" and "readmitted", in the act admitting Julia A. Moore to citizenship the word "admitted" was used in its ordinary sense, and that since the act itself distinguished between the word "admitted" and "readmitted" that the Department should now recognize that

distinction when so clearly and intentionally made by the Council itself. Even if it be true that the Act of December 4, 1894, applies to all persons "readmitted" to citizenship and that if all the persons admitted or readmitted generally by the Cherokee National Council come within the scope of the act, yet the act is not to be applied to a case where the Council itself distinguished.

When I come to apply the act of December 4, 1894, therefore, to the Julia A. Moore case, the word "readmitted" in that act means such person as the Cherokee Nation Council undertook to readmit and not persons who, like Julia A. Moore, the Cherokee National Council undertook to admit.

We, therefore, respectfully submit that Julia A. Moore and her younger two children, John A. Nelson and Charles Lloyd Moore, should be enrolled together with the older two children, who, as above stated, are entitled to enrollment under the decision in the Stonewall J. Rogers case.

Respectfully submitted,

Harry G. Kimball

Geo. Lewis White

Attorneys for Applicants.

DEPARTMENT OF THE INTERIOR.

In re application of JULIA A. MOORE, ET AL., for enrollment as Cherokee citizens.

Reply brief on behalf of the Cherokee Nation.

Comes now the Cherokee Nation and protests against the favorable consideration of the motion for review filed in the above case by counsel for applicant.

On February 3, 1905, we filed a brief in this case, protesting against the enrollment of the children now asked to be enrolled in this case, and this case was referred to the Honorable Assistant Attorney General, who rendered an elaborate opinion in the same on March 12, 1904 (I.T.D. 4782-1903, 92-1904).

After reviewing the facts in the case and quoting from the act of December 13, 1890 admitting Julia A. Nelson and her children to citizenship , and the act of December 4, 1894, the Honorable Assistant Attorney General further stated , "The Cherokee Nation found that many of those upon whom it had conferred the right of citizenship had never identified themselves with the nation or had done so only temporarily and sometimes merely colorably, and were not contributing by their co-operations and energies to its progress and upbuilding. It fixed a limit of six months within which such persons should return to the nation and establish their residence. Obviously those persons who had been but once admitted to citizenship were as much within the object of the statute as were those who had beentwice or more admitted. I, therefore, am of the opinion that the limitation applied to both classes alike, and that Mrs. Moore and her children born after passage of the act who can only claim under and through her right are barred.

It remains to consider the protest against the enrollment of the children, Arthur and Myrtle E., born prior to January 4, 1895, when the bar against their mother's citizenship became complete. No right was conferred on them by the act of December 13, 1890, admitting their mother. They were born after that act of a white, non-citizen father, in a different allegiance and under the law of the place of their birth took the allegiance of their father. Ex parte Reynolds (5 Dill. U S 394). Their right to Cherokee citizenship was not conferred or vested, but was merely potential, depending upon andinstant to the citizenship of their mother under the act of 1890 and terminated with her right. I am, therefore, of opinion that the protest against their enrollment should be sustained and their enrollment denied.

This states our position exactly. It states the contention of the Cherokee Nation as succinctly as it can be done. This has always been the position of the Cherokee Nation. We insist that this is good law, and we say that this opinion should be adhered to.

Respectfully submitted,

Attorneys for the Cherokee Nation.

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-380.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, January 29, 1903.

W. W. Hastings,

Attorney for Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 28, 1903, granting the application of Julia A. Moore for the enrollment of her two minor children, Arthur and Myrtle E. Nelson, as citizens by blood of the Cherokee Nation, and rejecting her application for the enrollment of herself and her two minor children, John A Nelson and Charles L. Moore, as citizens by blood of said Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-3.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-380

Muskogee, Indian Territory, February 16, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission has this day transmitted to the Secretary of the Interior, for review, the record of proceedings had in the matter of the application of Julia A. Moore for the enrollment of herself and four minor children as citizens by blood of the Cherokee Nation, including the Commission's decision, dated January 28, 1903, rejecting said application as to Julia A. Moore and her two children, John A. Nelson and Charles L. Moore, and granting said application as to her two children, Arthur and Myrtle E. Nelson, and the protest of the Cherokee Nation against said decision, dated February 3, 1903.

The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Acting Chairman.

Refer in reply to the following:
Land:22036-1903
1811-1903.

Copy.

Department of the Interior,
Office of Indian Affairs.

Washington, June 1,1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith report from the Commission to the Five Civilized Tribes, dated February 16, 1903, forwarding, for the Department's consideration, the record relative to the application of Julia A. Moore, for the enrollment of herself and her four minor children as citizens by blood of the Cherokee Nation.

January 28,1903, the Commission held that Julia A. Moore and her two minor children, John A. Nelson and Charles L. Moore , were not entitled to enrollment, and that Arthur and Myrtle E. Nelson were entitled to enrollment.

April 2, 1903, the Commission, at the request of this office, forwarded an act of the National Council of the Cherokee Nation approved by the Principal Chief December 15,1890, admitting, among others, Julia A. Nelson to citizenship in the Cherokee Nation.

Arthur Nelson, the record shows, was born October 12, 1892; Myrtle E. Nelson was born June 14,1894; John A. Nelson was born October 27,1897, and Charles Loyd Moore was born October 3,1900.

The record in this case shows that Julia A. Moore, formerly Nelson, was admitted to citizenship in the Cherokee Nation December 15,1890; that she was 22 years of age at

the time of her admittance; that she removed to and settled in the Cherokee Nation in 1896; that she has continuously resided there since that date; that her former husband, Edward Nelson, was the father of Arthur, Myrtle N. and John A. Nelson; that subsequent to the death of her said husband the principal applicant married Joseph Moore; that as a result of that marriage Charles L. Moore was born.

The Commission quotes from section 21 of the act of June 28,1898, as follows:

"Shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto - -"

and the act of the National Council of the Cherokee Nation approved December 4, 1894, which provides-

"That all persons who have been or may hereafter be re-admitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act, or from the date of re-admission of persons hereafter re-admitted, or no rights whatever shall accrue to such persons by reason of such re-admission; provided, that nothing in this act shall bar minors and orphans,"

and takes the position that as Arthur and Myrtle N. Nelson were born subsequent to the "re-admission of their mother", and prior to December 4, 1894, they do not come within the purview of the Cherokee act of that date and are entitled to enrollment; that John A. Nelson and Charles L. Moore having been born subsequent to the removal of their mother to the Cherokee Nation in 1896 are considered to have acquired no rights, the mother having failed to comply with the provisions of the act of the National Council of the Nation.

The right of these applicants to enrollment, it appears to the office, depends upon the right of the principal applicant to enrollment. If the minor applicants, Arthur and Myrtle Nelson are entitled to enrollment it must be on account of the citizenship of their mother. The Commission speaks of Julia A. Moore having been "re-admitted." The act of the National Council of December 15,1890, seems to make a distinction between "admission" and "re-admission." The act mentions several persons as "re-admitted" to citizenship in the Cherokee Nation, and it declares that others, and among them Julia A. Moore, "are hereby admitted to all the "rights and privileges of citizenship in the Cherokee Nation by virtue of their Cherokee blood."

From the act it would seem that it was the custom of the Cherokee Nation to re-admit its citizens, who removed from the Nation and afterwards returned, and that if a person of Cherokee blood had never been recognized as a citizen of the Nation the Council in conferring citizenship rights upon such person used the word "admitted."

The act of December 4, 1894, does not seem to apply to persons who have been admitted to citizenship, but only to those who have been re-admitted. So far as the office has been able to discover, the laws of the Cherokee Nation do not require that a person admitted to citizenship remove within a stated time unless it was specifically stated in the act of admission.

Referring again to the act of December 15, 1890, it will be noticed that in declaring Frances M. Jones and another entitled to citizenship in the Cherokee Nation the Council used the word "re-

admitted." The paragraph admitting these parties follows the one admitting Julia A. Nelson, which paragraph is preceded by another paragraph declaring that certain parties are entitled to citizenship, in which said paragraph the word "re-admitted" is used.

There can be no question as to the blood of these parties, and from the record before the office and the terms of the act under which Julia A. Moore was admitted to citizenship the office believes that inasmuch as she and her minor children, John A.Nelson, Charles L. Moore, Arthur and Myrtle E. Nelson, removed to and settled in the Cherokee Nation prior to June 28, 1898, they are entitled to enrollment as citizens by b lood of the Cherokee Nation.

It is therefore respectfully recommended that the decision of the Commission declaring that Arthur and Myrtle E. Nelson are entitled to enrollment be approved, and that that part of the decision declaring that the other parties are not entitled to enrollment be disapproved/ and the Commission instructed to enroll them as citizens of the Cherokee Nation.

Very respectfully,

A.C.Tonner,

Acting Commissioner.

GAW-O.

Refer in reply to the following:
Land. 51930-1903.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, August 28, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a communication from the Commission to the Five Civilized Tribes, dated July 27, 1903, giving its views as to the distinction between the words "admission" and "readmission", as used in the acts of the Cherokee National Council granting citizenship, and in the act of Council of December 4, 1894, in compliance with the request in Departmental letter of June 9, 1903 (I.T.D.4782-1903), which question arose in connection with the case of Julia A. Moore, et al., Cherokee D . 380.

In this communication the Commission takes the position that where persons who have once resided in the Cherokee Nation, having been recognized as citizens, have removed from the Nation and afterwards returned and had citizenship conferred upon them by Council, that such persons have been readmitted; but that where persons who have never resided in the Indian Territory and have never been before recognized as citizens of the Nation and have been granted citizenship by Council, that the word "admitted" is very properly used.

The Commission expresses the further opinion that these two words have been employed by the Cherokee authorities interchangeably, and that no particular significance is attached to the mean-

ing conveyed by the one as different from the other.

In proof of this the Commission states that the name of Julia A. Moore, the case in question, appears upon a "list of persons admitted and readmitted to Cherokee citizenship by the National Council and Commissions of Citizenship in the year 1880 and since that year", as follows: "Nelson, Julia A., readmitted by council December 15, 1890"; while in the act itself it is stated that she is "admitted" to citizenship; that again in "an act providing for the appointment of a commission to try and determine applications for Cherokee Citizenship" passed by the Cherokee Council December 6, 1886 and approved by D.W.Bushyhead, Principal Chief, December 8, 1886, the following language is used - "Each applicant for citizenship who shall make satisfactory proof to said commission, according to Section 7 of this act, shall be and is hereby readmitted to the rights and privileges of Cherokee citizenship, under Section 2, Article 1, of the Constitution, and shall be furnished a certificate of such admission, bearing the name and age of each person so admitted, signed by the Chairman of the Commission, attested by the Clerk, and which shall be endorsed by the Principal Chief, with seal of office."

The Commission further calls attention to the case of Martha Swift, Cherokee D. 1119, reopened by the Department in its letter of March 23, 1903, (I.T.D .4992-1902 & 2673-1903), stating that there is an act of the Commission on Citizenship, signe d by J.T.Adair as Chairman, entitled "Certificate of admission to Cherokee citizenship", while in the body of said act it is stated "The above named parties (applicants for citizenship) are from this, the date of said

finding and decision of the Commission as announced and recorded, readmitted by the National Council....."

From the foregoing, the Commission expresses the belief that no distinction whatever should be made by the Department between the words "admission"and "readmission", as used by the Cherokee National authorities in their laws and acts granting citizenship.

The office concurs in this view of the Commission that there should be no distinction made by the Department between the terms admission and readmission, since it appears from the foregoing that they are used interchangeably. It appears that the term "readmitted" isalmost universally employed when a native Cherokee who has been born and lived a portion of his live in the Cherokee Nat ion and moved therefrom and at some subsequent time returned thereto, when he was admitted to citizenship therein by an act of the Cherokee Council. Inasmuch as it is clear that to use the word "readmitted" is a misnomer, for all citizens who have been born in the Cherokee Nation obtain their right to citizenship by reason of their nativity and blood, and no act of council or any act on the part of the authorities of the Cherokee Nation is ~~in~~ necessary to constitute such a person a citizen of the Cherokee Nation, therefore when he leaves the Cherokee Nation and returns thereto and is admitted to citizenship therein, strieting speaking it cannot be called a readmission. Again, where a Cherokee by blood has never resided within the Cherokee Nation and goes there and makes application for admission to citizenship therein and the Cherokee Council admits him to citizenship, such an act would clearly be an act of admission and not one of readmission.

There may be instances in which Cherokee citizens have been twice admitted ~~in~~ to citizenship in the Cherokee Nation by an act of the Cherokee Council, but a review of the Cherokee citizenship cases which have come before the office for consideration shows that such cases constitute a very small percent of the whole. It would therefore seem that the words "admission" and "readmission" as used in connection with ~~in~~ Cherokee citizenship should be held to mean one and the same thing, as suggested by the Commission.

Very respectfully,

Commissioner.

WCB-R.

D C No. 85726. 58439. JP.
CMR.

RTD 4782, 6826-1903.

DEPARTMENT OF THE INTERIOR,

LRS. WASHINGTON, September 11, 1903.

The Commission
to the Five Civilized Tribes.

Gentlemen:

Referring to departmental letter of June 9, 1903, transmitting a copy of a report of the Indian Office relative to the Cherokee enrollment case of Julia A. Moore et al., and to your report of July 27, 1903, in reply to said letter of June 9, there is inclosed herewith a copy of a report of August 28, 1903, of the Commissioner of Indian Affairs, submitting your report of July 27th. As the Acting Commissioner recommends that your decision adverse to some of the applicants be reversed, it is requested that you advise the attorney for the Cherokee Nation of the recommendation of the Indian Office, and that he will be allowed 30 days within which to file any argument he may desire in the matter, to be served upon the principal applicant, and that you advise the principal applicant that she will be allowed 10 days to reply to any such argument.

Promptly report at the end of the time mentioned.

Respectfully,

(Signed) Thos. Ryan,
Acting Secretary.

1 inclosure.

DC 17210 1903 J.P. FWS

Department of the Interior,
Washington, June 9, 1903.

I.T.D.4782-1903
LRS

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

It appears, in the Cherokee enrollment case of Julia A. Moore et al., that the principal applicant was admitted to citizenship in the Cherokee Nation by an act of the Nation of December 15, 1890.

The Acting Commissioner of Indian Affairs states, in his letter of June 1, 1903, transmitting the case, that the Cherokee law of December 4, 1894, which provides:

"That all persons who have been or may hereafter be re-admitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act, or from the date of re-admission of persons hereafter re-admitted, or no rights whatever shall accrue to such persons by reason of such re-admission: provided, that nothing in this act shall bar minors and orphans,"

"seems to make a distinction between 'admission' and 're-admission.'"

In rendering your decision in the case, you treated the principal applicant as re-admitted to citizenship. As you have always treatedpersons of Cherokee blood "admitted" to citizenship as re-admitted, a copy of the Acting Commissioner's letter is inclosed, and it is requested that you furnish the Department at an early date, your views in regard to this question.

Respectfully,

(signed) Thos. Ryan

Acting Secretary.

1 Inclosure.

mdl

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 380

Muskogee, Indian Territory, September 24,1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of Departmental letter of September 11, 1903, in the matter of the application of Julia A. Moore, et. al., for enrollment as citizens by blood of the Cherokee Nation, Cherokee D-380. In accordance with the instructions contained in this letter you are advised that you will be allowed thirty days from date hereof in which to file with the Commission for transmission to the Department, such argument as you may desire to make, a copy of which argument you will be required to serve upon the applicants.

Respectfully,

Chairman.

Enc. G-1.

COPY.

Refer in reply to the following:
Land 73496-1903.
73121-1903.

Department of the Interior,
Office of Indian Affairs,
Washington, November 21, 1903.

The Honorable
The Secretary of the Interior.

Sir:

Referri ng to Department letter of September 11, 1903, I.T.D. 4782, 6526, there is enclosed herewith a report from the Commission to the Five Civilized Tribes dated November 9, 1903, transmitting the argument of the applicants' attorney in the matter of the right of Julia A. Moore et al. to enrollment as citizens of the Cherokee Nation, also a report from the Commission dated November 7th, transmitting brief and argument in this case by the attorney for the Cherokee Nation.

Very respectfully,
Signed. W.A.JONES
Commissioner.

GAW-CG C.

Refer in reply to the following: COPY

Land 81392-1903.

Department of the Interior,
Office of Indian Affairs,
Washington, January 6, 1904.

The Honorable
The Secretary of the Interior.

Sir:

Referring to Department letter of November 27th last, (I.T.D. 4782) there is enclosed herewith a report from the Commission to the Five Civilized Tribes, dated December 15, 1903, transmitting applicant's argument in Cherokee case of Julia A. Moore et al., with proof of service upon the Cherokee Nation attached thereto. There is also enclosed a letter from the attorney for the applicants, in which he states that he prefers to retain his Commission as a notary public rather than secure license to practice before the Department and relinquish his commission as such notary.

Very respectfully,

Signed W.A.JONES

Commissioner.

G.A.W. (B)

COPY

SVP JRW JRW WCP I.T.D. 4782, 6526, 8302-1903.
92-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY GENERAL.
WASHINGTON.

MARCH 12, 1904.

The Secretary of the Interior.

Sir:

I am in receipt, by reference, February 20, 1904, of the record and accompaying papers in the application for enrollment as citizens of the Cherokee Nation by Julia A. Moore, formerly Mrs. Julia A. Nelson, and her four minor children, Arthur, Myrtle E., and John A. Nelson, and Charles L. Moore, with request for my opinion in the matter.

The record shows that the principal applicant, Julia A. Moore, whose maiden name was Martin, is the daughter of a half blood Cherokee mother, who married a white man, in 1865, at Nevada City, California, where Julia was born about 1869, and where she married Edward Nelson, now dead. Children of that marriage were Edward J., born in 1890 (whose case is not included in this record); Arthur (1892); Myrtle E. (1894); and John A. Nelson (1897). The family returned to the territory in 1896, where Edward Nelson died, and Mrs. Nelson married Joseph Moore, a white man, of Vinita, of which marriage was born Charles L. Moore.

December 13, 1890, by act of the Cherokee National Council it was enacted that:

Julia A. Nelson (daughter) and her children, Rosa Nelson age 2 years, Edward J. Nelson 6 months, ... all being sons and daughters and grandchildren of Nancy Martin, that they be and are hereby admitted to all the rights and privileges of citizenship in the Cherokee Nation by virtue of their Cherokee blood.

December 4, 1894, the Council enacted:

That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act, or from the date of readmission of persons hereafter readmitted, or no rights whatever shall accrue to such persons by reason of such readmission: Provided, That nothing in this act shall bar minors and orphans.

The Commission to the Five Civilized Tribes adjudged that Arthur and Myrtle E. Nelson, who were in being and minors when the act of December 4, 1894, was enacted, be enrolled. Mrs. Moore and the children John and Charles were denied. The nation protested against the enrollment of Arthur and Myrtle. The applicants denied insist upon their right to be enrolled. Both parties have filed briefs.

The argument of the rejected applicants rests upon the distinction between the words "admitted" and readmitted". It is argued that readmitted is used with reference to persons who being once admitted to citizenship forfeited, abandoned, or lost that right, and were again restored to it. The commission's report of July 27, 1903, concurred in by the Indian office August 28, 1903, is

to the effect that investigation into the legislation and practice of the Cherokee ation in citizenship cases indicates that no clear distinction appears in the use and signification of the words admitted and readmitted, these terms being used interchangeably.

It is a rule of statutory construction that the legislative intent shall prevail, rather than the technical or strict signification of the words; that what is within the purpose is within the meaning of the statute, though obscurely or inartistically expressed. There being no clear distinction in the signification of these words, the question arises: what was the object of the act of 1894. Upon that there can be no doubt.

The Cherokee Nation found that many of those upon whom it had conferred the right of citizenship had never identified themselves with the nation, or had done so only temporarily and sometimes merely colorably, and were not contributing by their co-operation and energies to its progress and upbuilding. It fixed a limit of six months within which such persons should return to the nation and establish their residence. Obviously those persons who had been but once admitted to citizenship were as much within the object of the statute as were those who had been twice or more admitted. I therefore am of opinion that the limitation applied to both classes alike, and that Mrs. Moore and her children born after passage of the act, who can only claim under and through her right, are barred.

It remains to consider the protest against enrollment of the children, Arthur and Myrtle E., born prior to June 4, 1895, when the bar against their mother's citizenship became complete. No right was conferred on them by the act of December 13, 1890, admitting their mother. They were born after that act, of a white non-citizen father, in a different allegiance, and under the law of the place of their birth took the allegiance of the father. Ex parte Reynolds (5 Dill., U. S. 394). Their right to Cherokee citizenship was not conferred or vested, but was merely potential, dependent upon and incident to the citizenship of their mother under the act of 1890, and terminated with her right. I am therefore, of opinion that the protest against their enrollment should be sustained and their enrollment be denied.

Very respectfully,

Frank L. Campbell,
Assistant Attorney General

Approved: March 12, 1904.
E. A. Hitchcock.
Secretary.

D.C. 9022-1904. JP WHE LRS

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

I.T.D. 4782-1903
2156-1904.

MARCH 17, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

Referring to your letter of February 16, 1903, transmitting the record of proceedings in the matter of the application for the enrollment of Julia A. Moore et al., as Cherokee citizens, there is inclosed herewith a copy of the opinion of the Assistant Attorney General, of March 12, 1904, in the matter, approved by the Secretary on the same date.

In accordance with said opinion, your decision of January 28, 1903, holding that the application should be rejected as to Julia A. Moore, John A. Nelson and Charles L. Moore, is hereby affirmed, and is reversed so far as it holds that the application should be allowed as to Arthur Nelson and Myrtle E. Nelson.

Copies of Indian Office letters of November 21, 1903, and January 6, 1904, are inclosed.

Respectfully,

Signed. Thos Ryan

Acting Secretary.

3 inclosures.

M89

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING
Cherokee D-380.

Muskogee, Indian Territory, March 29, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 28, 1903, rejecting the application for the enrollment of Julia A. Moore, John A. Nelson and Charles L. Moore, and granting the application for the enrollment of Arthur and Myrtle E. Nelson as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior as to Julia A. Moore, John A. Nelson and Charles L. Moore, and reversed as to Arthur and Myrtle E. Nelson, on March 17, 1904.

Respectfully,

Commissioner in Charge.

WILLIAM HENRY WHITE,
Attorney at Law,
COLUMBIAN BLDG., 416 5TH ST., N. W.,
Washington, D. C.

June 12, 1905.

W. W. Hastings, Esq.,

Tahlequah, Ind. Ter.

Dear Sir:

Enclosed please find motion for review in re application of Julia A. Moore, et al., for enrollment as Cherokee citizens.

Yours very truly,

William Henry White

Enc.

(C O P Y)

J. R. W.
W. C. P.

DEPARTMENT OF THE INTERIOR.
Office of the Assistant Attorney-General.

I. T. D.
7540-1905.

Washington, July 10, 1905.

The Secretary

of the Interior.

Sir:-

By reference of June 26, 1905, the motion of Julia A. Moore, formerly Nelson, on behalf of herself and four minor children, Arthur, Myrtle E., and John A. Nelson, and Charles L. Moore, for review of departmental decision of March 17, 1904, based upon the opinion of March 18, 1904, denying their application for enrollment as citizens by blood of the Cherokee Nation, is before this office for consideration.

No error of fact is alleged, and for the facts in the case reference is here made, without repetition, to the facts stated in my former opinion. The motion is upon two grounds, viz: (1) That as the two elder children, Arthur and Myrtle E. Nelson, were born after their mother was admitted to citizenship by the Cherokee act of December 13, 1890, and prior to June 4, 1895, when their mother's citizenship was lost under the act of December 4, 1894, by failure to remove to and permanently locate in the nation, there was error in said opinion, as the act of December 4, 1894, excepted minors from its operation. (2) As the act of admission used the word "admitted"

as to some, Julia A. Nelson and others, and "readmitted" as to some, John D. Tully and others, in this particular act the distinction was made between the meaning of the words and the act of December 4, 1894, requiring persons "readmitted" within six months to remove to and locate in the nation, is not applicable to persons who were admitted.

I am of opinion that the second ground of the motion is not well taken. The opinion was not based on the wording of the act admitting Mrs. Nelson, but upon the intent of the act of December 4, 1894, in use of the word "readmitted." For reasons given in the former opinion herein, and in opinions of later date in citizenship cases, the act of December 4, 1894, was aimed at absenteeism, and "readmitted" was used in a sense to include persons admitted simply, never having been citizens, as well as persons who had once been citizens. I am of opinion that this branch of the motion should be denied.

As to the applicants Arthur and Myrtle E., who were born before June 4, 1896, when the act of December 4, 1894, took effect against their mother, as the act excepted minors from its operation, I am of opinion that the last paragraph of the former opinion herein was erroneous. In the opinion of March 25, 1905, in the case of Stonewall J. Rogers and children

(I. T. D., 6340-1904), this subject was again considered. For the reasons there given, I am of opinion that children of Mrs. Moore, minors, June 4, 1895, born while she was a recognized Cherokee citizen, are entitled to be enrolled.

Very respectfully,

S. V. Proudfit,

First Assistant Attorney.

July 10, 1905.

Approved:

F. L. Campbell,

Acting Secretary.

WMS.

DEPARTMENT OF THE INTERIOR,

D. C. 35221-1905.
I. T. D.
8164-1905.

WASHINGTON. July 15, 1905.

J. P.

The Commissioner to the
Five Civilized Tribes,
Muskogee, Ind. Ter.

Sir:

There is inclosed a copy of the opinion of the First Assistant Attorney in the office of the Assistant Attorney-General of July 10, 1905, in the matter of the applications of Julia A. Moore, Arthur Nelson, Myrtle E. Nelson, John A. Nelson, and Charles L. Moore, for enrollment as citizens by blood of the Cherokee Nation.

In accordance with this opinion the decision of the Department of March 17, 1904, is hereby rescinded so far as it relates to Arthur and Myrtle A. Nelson. You are authorized to enroll those applicants.

Respectfully,

(Signed) F. L. Campbell
Acting Secretary.

1 inclosure.

(REFER IN REPLY TO THE FOLLOWING)
Cherokee Roll.

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

Muskogee, Indian Territory, July 24, 1905.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment, among others, of Arthur and Myrtle E. Nelson as citizens by blood of the Cherokee Nation, you are hereby advised that this office is in receipt of Departmental letter of July 15, 1905 (I.T.D. 8164-1905), in which the decision of the Department of March 17, 1904, reversing the decision of the Commission to the Five Civilized Tribes dated January 28, 1903, granting the application for the enrollment of the said Arthur and Myrtle E. Nelson, is rescinded, and this office is directed to enroll said parties.

For your information there is herewith inclosed a copy of Departmental letter referred to.

Respectfully,

Commissioner.

Incl. S-10.

-Copy-

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

LAND:
12389-1906
41181- "

May 16, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a letter from the Commissioner to the Five Civilized Tribes dated May 7, 1906, transmitting a motion and affidavits on behalf of the applicants for rehearing in the Cherokee Freedman enrollment case of Lula McLish et al.

The record is also enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

MMM
C

-Copy- Y.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

D.C.20707
I.T.D.8842-1906. May 22, 1906.

The Commissioner to the Five Civilized Tribes,

Msukogee, Indian Territory.

Sir:

The Department has considered the motion for reheasing in the Cherokee freedman case of Lula McLish, et al, received with the Acting Commissioner's letter of the 7th instant. The affidavits in support of the motion are not sufficient to warrant granting the request made. All that is stated in them from alleged knowledge may be true, and yet the applicants would not be entitled to enrollment. There is positive testimony in the record showing that if the father of Lula McLish, through whom she claims, came to the Cherokee Nation from Kansas in 1866, he did not establish an "actual, personal, bona fide residence" there (see section 3 of the act of April 26, 1906, Public No. 129), but that he returned to Kansas, married there, and resided there for many years, and that Lula McLish was born there. The witnesses the applicants propose to introduce have appeared in other Cherokee freedmen cases and their testimony has been shown be be unreliable.

For reasons given the Acting Commissioner recommends that the motion be not entertained. Concurring in such recommendation, it is dismissed. So advise the party filing it.

A copy of Indian Office letter of May 16, 1906, submitting the Acting Commissioner's report, is inclosed.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 inclosure.

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedmen
R-604.

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

Muskogee, Indian Territory, June 5, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed by Lula McLish April 9, 1906, for rehearing in her Cherokee freedmen enrollment case, was dismissed by the Department May 22, 1906.

For your information, there is inclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Incl. S-24
LS

B - Meth. Application - " " 21. 1900
C - Marriage License and Certificate
D - Birth affidavit Arthur Nelson
E - " " Myrtle E. Nelson
F - " " Johannes A. Nelson
" " Charles L. Moore
H Additional testimony Oct 31, 1901

I Notice of final consideration 2/26/02
J Order closing testimony, Feb 26, 1902

Dec Serial #3183

Cher D 381

Cherokee D 381.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., MARCH 8, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of EMMA J. SAMUELS ET AL., as citizens by blood of the Cherokee Nation.

The records of this office show that on December 8, 1905, the Cherokee enrollment case of Emma J. Samuels, et al., was remanded to this office by the Department for further hearing and readjudication; that on December 20, 1905, the applicants, Emma J. Samuels and her daughter, Robbie J. Samuels were notified that they would be permitted to appear before the offices of the Commissioner at Muskogee, Indian Territory, on January 4, 1906, and introduce such testimony as they desired in the case. By agreement between the applicants and the attorneys for the Cherokee Nation, the case was continued from January 4 to March 8, 1906. The records of this office further show that on February 27, 1906, the applicants and the attorney for the Cherokee Nation were notified that on motion of the Commissioner, the case would be continued from March 8 to March 29, 1906. The applicants this day appear in person and James S. Davenport, appears on behalf of W. W. Hastings, Attorney for the Cherokee Nation, and Mr. Davenport consenting that the case shall on this day be taken up for hearing, the following proceedings were had:

EMMA J. SAMUELS, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

Q What is your name? A Emma J. Samuels.
Q How old are you? A 47.
Q What is your post office? A Vinita now.
Q Are you the daughter of Jeff and Mariah A. Parks? A Yes sir.
Q Have you a daughter named Robbie J. Samuels? A Yes sir, Harrison now.
Q Is this she (indicating)? A Yes sir.
Q You are both applicants for enrollment as citizens by blood of the Cherokee Nation, are you? A Yes sir.
Q Do you desire to give further testimony in connection with your right to enrollment as a citizen of the Cherokee Nation? A Yes sir.
Q The records show that when you appeared before the Commission to the Five Civilized Tribes at a former hearing had before it, you refused to answer questions asked you with reference to your residence outside of the Cherokee Nation, was that on account of some difficulty that your husband was in and you didn't want to make his whereabouts known? A Yes sir.
Q Was it for the purpose of concealing the fact that you had been outside of the Cherokee Nation or not? A No sir.
Q Where wereyou born? A In the Cherokee Nation, Delaware District.
Q How old were you when you married? A 17.
Q Have you been married more than one time? A No sir.
Q Is your husband's name Robert Samuels? A Yes sir.
Q Is he living at this time? A Yes sir.
Q Is your husband at this time a fugitive from justice? A Yes sir.

Q When was the crime committed with which he is charged? A In 1878 I believe it was.
Q Were you and he living together when the crime was committed?
A Yes sir.
Q Whereabouts were you living? A On Cowskin Prairie, Delaware District, Cherokee Nation.
Q How after the crime was alleged to have been committed how long did you continue to live there? A We went away right-a-way.
Q Did you go outside of the Cherokee Nation? A Yes sir.
Q In what state did you go? A We went to Missouri then.
Q How long did you stay there? A We only stayed there one winter.
Q Then where did you go? A Nebraska.
Q How long did you stay there? A One summer.
Q How in Missouri, was that the winter of 1878? A Winter of '79.
Q Was it the winter of '78 and spring of '79, was that it? A Yes sir, we went away in 1878 and we stayed in Missouri that winter and left in the spring.
Q You stayed the summer of 1879 in Nebraska? A Yes sir.
Q Then where did you go? A Kansas.
Q How long did you stay there? A We have lived in Kansas a number of years.
Q You moved to Kansas then in the fall of 1879, was it? A Yes sir, in the fall of '79.
Q Where were you during the year 1880? A I was in Kansas.
Q Have you lived any other place since 1879 besides Kansas? A No sir, only the Cherokee Nation, lived here some of the time.
Q You have made your home in Kansas and the Cherokee Nation since then? A Yes sir.
Q When you left the Cherokee Nation in 1878 did you ~~kix~~ leave any effects in the Cherokee Nation? A Yes sir.
Q Of what did they consist? A We left household goods here and a claim on an little farm.
Q Did you live on a farm when you left? A Yes sir.
Q What did you do with the place? A I sold it.
Q When? A That place, I guess I didn't do anything with that.
Q What did you do with your household goods? A I just left them here.
Q Did you leave them with any one? A Left them with my sister.
Q Whatever became of them? A Some of them are here yet, my sister used them, I make my home with her when I am here.
Q You never received anythin g for them did you? A No sir.
Q Did you ever receive anything from the place you left? A Yes sir, at the final winding up of my father's estate.
Q Was that the interest you had in your father's estate? A Yes sir.
Q How since 1880 how often have you visited the Cherokee Nation?
A Four or fice times, I forget which it is, I believe though it is five times I have been back.
Q Do you remember the first time, what year it was? A '83 I think, '82 or '83.
Q You think it was in 1882? A '82 I think.
Q How long did you stay that time? A I stayed three months.
Q Then you returned to Kansas? A Yes sir.
Q When did you visit the Cherokee Nation the next time? A Well it was several years, I guess it was in '92.
Q How long did you stay that time? A I stayed seven months.
Q Then you returned to Kansas? A Yes sir.
Q When was your next visit? By way of refreshing your memory was it the time you applied for your enrollment? A Yes sir, I think it was.--- No not this enrollment, I think I was here in '96, I was here when they enrolled for the strip payment.
Q Were you here when they were making the roll preparatory to making the Strip payment? A Yes sir.

QQ How long did you stay that time? A About seven months.
Q Then you were here on two different occasions and stayed seven months according to your test mony? A Yes sir, it was the time of the Strip payment I stayed seven months.
Q Then you only stayed one time seven months? A Yes sir.
Q Then the time you referred to as being 1892 was the time they were making the roll for the Cherokee Strip payment? A I believe that was what I stayed.
Q Then when did you visit the Nation the next time? A Two years after that it must have been. I think I was back once but I don't remember when it was, I have been back two or three times and stayed three months at a time, I don't remember.
Q When you applied for enrollment at Vinita how long did you stay in the Cherokee Nation that time? A It was just a month I think that time, the first time, I have been before the Commission twice.
Q Was the next time when you appeared before the Commission on January 25, 1905, after you applied for enrollment? A Yes sir, that was last year.
Q How long did you stay that time? A Two months, two or three months.
Q Now outside of these visits that you made to the Cherokee Nation have you made your home in the State of Kansas since the fall of 1879? A Yes sir.
Q Have you kept house in Kansas? A Yes sir.
Q Is your husband in business there? A Yes sir.
Q Does he vote in the State of Kansas? A Yes sir.
Q Has he voted there since he went there in 1879? A Yes sir.
Q Now since you left the Cherokee Nation in 1878 have you owned any property in the Cherokee Nation? A Yes sir.
Q What sort? A A part in my father's estate and a lot in Vinita.
Q When did you acquire the title to the lot in Vinita? A In '93, spring of '93.
Q When did your father die? A Well I don't remember what year it was, in '82 or '83. '83 I guess it was.
Q Did you ever derive anything from your interest in the estate of your father? A Yes sir, I got my part of it.
Q Did he leave a farm? A Yes sir.
Q Did you ever get any rent from the place? A No sir, my two brothers
Q You, yourself never got any rent? A No sir.
Q Was the place ever sold, did you get any part of the purchase price? A Yes sir.
Q How much did you receive? A I think we got about $260.00 apiece.
Q You remember when the place was sold, how long ago? A No, I don't. It was in '93.
Q You think the place was sold about 1893? A Yes sir.
Q Since that time have you owned or controlled any property in the Cherokee Nation? A Nothing except the town lot. I bought the town lot in Vinita with part of that money.
Q Have you held the town lot since that time? A Yes sir, until a year or so ago.
Q Until how long ago? A I claim it yet. My sister has been using it, I talked of letting her have it.
Q Outside of the interest you have mentioned have you owned or controlled any property interest of any kind in the Cherokee Nation?
A No sir.
Q You have no children besides Robbie J. Samuels? A No sir.
Q After you left the Cherokee Nation did you ever apply to the Cherokee National Council or to the Dawes Commission for readmission to citizenship? A No sir.
Q Did you draw Cherokee Strip money? A Yes sir.
Q Did you also draw for your daughter? A Yes sir.

ROBBIE J. HARRISON, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

Q What is your name? A Robbie J. Harrison.
Q How old are you? A 21.
Q What is your post office? A Vinita.
Q You are a daughter of Mrs. Samuels here? A Yes sir.
Q Have you married since she applied for your enrollment? A Yes sir.
Q What is the name of your husband? A John J. Harrison.
Q Is he a citizen of the Cherokee Nation? A No sir.
Q When were you and he married? A In 1904.
Q What day and month? A October 26th.
Q Where were you born? A Kansas.
Q When did you first come to the Cherokee Nation? A In '92.
Q How long did you remain then? A Seven months.
Q Then you returned to Kansas? A Yes sir.
Q Were you on a visit with your mother then? A Yes sir.
Q When did you next return to the Cherokee Nation? A The next time she did.
Q Was that when she applied for enrollment in 1900? A I don't remember. I was here the next time she was but I don't remember what date, what year it was.
Q Do you remember whether you and she returned to the Cherokee Nation from the time you were here seven months in 1892 and the time she applied for your enrollment? A Yes sir.
Q You think you were here between that time? A Yes sir.
Q You are not sure about it? A Yes sir, I am.
Q How long did you stay? A A month.
Q Then the next time is when she applied for the enrollment in 1900? A Yes sir.
Q Since 1900 where have you lived? A Kansas.
Q You gave your post office as Vinita, is that the address you use because you do not desire the whereabouts of your father made known? A There is where I live now.
Q Are you living in Vinita now? A Yes sir.
Q Are you keeping house there? A No sir.
Q You staying with your relatives are you? A Yes sir.
Q Where were you and your husband married? A In Kansas.
Q Does he live there? A Yes sir.
Q You keep house there do you? A No sir.
Q Is he a citizen of the State of Kansas? A Yes sir.
Q He votes there? A Yes sir.
Q Owns property there? A Yes sir.
Q Has he ever visited the Cherokee Nation? A No sir.
Q Were you in the Cherokee Nation on a visit at the time your mother visited the Cherokee Nation on January 25, 1905, and appeared before the Commission? A No sir.
Q Is this the first time you have been in the Cherokee Nation since you were with your mother in the Cherokee Nation at the time she applied for enrollment? A Yes sir.
Q How long have you been in the Nation at this time? A Three weeks.
Q Have you ever owned or controlled any property or any interest of any kind in the Cherokee Nation? A No sir.

EMMA J. SAMUELS RECALLED:

ON BEHALF OF THE COMMISSIONER:
Q Do you want to introduce any further testimony? A No sir, I guess that is all.

This case is closed.

----------oOo----------

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 9th day of March, 1906.

Myron White

Notary Public.

Cherokee D 381

COPY.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Emma J. Samuels and Robbie J. Samuels, as citizens by blood of the Cherokee Nation.

-:-

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That on September 21, 1900, at Vinita, Indian Territory, Emma J. Samuels appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of herself and her minor child, Robbie J. Samuels, as citizens by blood of the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 26, 1902, and January 25, 1905.

The records further show that on April 15, 1905, the Commission to the Five Civilized Tribes rendered its decision herein, Commissioner Breckinridge dissenting, denying said applicants the right to enrollment as citizens by blood of the Cherokee Nation, which decision was on said date duly forwarded to the Department. Thereafter, on December 8, 1905, (I.T.D. 5276-1905), the Department remanded said case for rehearing and readjudication. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, March 8, 1906.

THE EVIDENCE IN THIS CASE SHOWS: That the principal applicant herein, Emma J. Samuels, is a Cherokee by blood, was born in the Cherokee Nation about the year 1859, and continuously resided therein until about the year 1875: That in the year 1875 she was married in Missouri to one Robert Samuels, a non citizen of the Cherokee Nation, and shortly after said marriage removed with her husband to the Cherokee Nation, where they continued to reside until the year 1878: That in the year 1878, said principal applicant left the Cherokee Nation with her husband and excepting occasional visits made to the Cherokee Nation, has since resided with her said husband at various places outside the domain of the Five Civilized Tribes: That her husband has exercised all the rights of a citizen of the state of Kansas where they now reside and where they have resided for the past twenty-five or twenty-six years, and the evidence fails to show that said principal applicant now intends or ever has intended

since her removal from the Cherokee Nation, as above indicated, to return thereto for the purpose of making it her permanent home.

The evidence further shows that when the said Emma J. Samuels removed from the Cherokee Nation in the year 1878, she left no property therein and that she did not possess any property in the Cherokee Nation until she inherited an undivided interest in her father's estate, about the year 1884, which she disposed of in 1893, and that subsequent to 1893, she purchased a town lot in Vinita, which it is claimed she still owns. Said principal applicant is identified on the Cherokee strip payment roll of 1894, and the Cherokee census roll of 1896. She is however, not identified on the Cherokee authenticated tribal roll of 1880.

In view of the foregoing, it is considered by this office that following the ruling of the Department in the case of Valzie Vann, et al., (I.T.D. 1504-1905), the principal applicant, Emma J. Samuels, by her removal from the Cherokee Nation in the year 1878, as above indicated, and her continued residence thereafter outside the domain of the Five Civilized Tribes, forfeited her right to Cherokee citizenship under Section II, Article I of the Cherokee constitution which in part provides:

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease; . . . . . ."

The evidence further shows that the minor applicant herein, Robbie J. Samuels, who is identified on the Cherokee census roll of 1896, is the child of the applicant, Emma J. Samuels and the said Robert Samuels, was born since Emma J. Samuels forfeited her right to Cherokee citizenship, and possesses no rights to enrollment not possessed by her said mother.

IT IS THEREFORE ORDERED AND ADJUDGED: That under the provisions of Section Twenty-one of the act of Congress approved June 28, 1898 (30 Stat.,495), Emma J. Samuels and Robbie J. Samuels are not entitled to enrollment as citizens by blood of the Cherokee Nation, and their application for enrollment as such is accordingly denied.

SIGNED. Tams Bixby.
Commissioner.

Dated at Muskogee, Indian Territory

this JUN 27 [illegible]

REFER IN REPLY TO THE FOLLOWING:

Cherokee
D 381

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

Muskogee, Indian Territory, February 27, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee enrollment case of Emma J. Samuels, et al., has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

W. C. Bear,

GHL

Acting Commissioner.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-381.

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

Muskogee, Indian Territory, June 27, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated June 27, 1906, rejecting the application of Emma J. Samuels for enrollment of herself and child, Robbie J. Samuels, as citizens by blood of the Cherokee nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Commissioner.

Encl. H.J.-147.
H.J.C.

Land.
56237-1906

DEPARTMENT OF THE INTERIOR, (COPY)

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. [redacted]r 3, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith, for Departmental consideration report of Commissioner Bixby, dated June 27, 1906, together with the record in the matter of the application of Emma J. Samuels, et.al., for enrollment as Cherokee citizens by blood.

The Commissioner reports that on September 21, 1900, Emma J. Samuels appeared before the Commissioner at Vinita and make application for the enrollment of herself and her minor child, Nebbie J. Samuels, as citizens by blood of the Cherokee Nation; that on April 15, 1905, the Commission rendered its decision, Commissioner Breckenridge dissenting, denying the right of the applicants to enrollment, and that, after having been duly forwarded, the Department, on December 8, 1905, (I.T.D. 5276-1905) remanded the case for rehearing and readjudication. In accordance with such order, further proceedings were had at Muskogee on March 8, 1906.

An examination of the records herein shows that the principal applicant, Emma J. Samuels, is a Cherokee by blood, was born in the Nation about the year 1859, and resided there continuously until about the year 1875, when she was married in Missouri to a non-citizen, one Robert J. Samuels; that shortly

after marrying, she with her husband, took up her residence in the Cherokee Nation, where she continued to reside until 1878, when she and her husband left the Nation; that since that date the applicant has, with the exception of occasional visits to the Nation, resided outside of the domain of the Five Civilized Tribes; that her husband has exercised all the rights of a citizen of the State of Kansas, where they have resided a greater part of the time since their departure from the Nation in 1878. The evidence fails to show that the principal applicant now intends or ever has intended to return to the Nation for the purpose of making it her permanent home. When Emma J. Samuels removed from the Nation in 1878, she left no property therein and did not possess any until she inherited an undivided interest in her father's estate in 1884. This she disposed of in 1893, and subsequently purchased a town lot in Vinita, which, it is claimed she still owns.

The Commissioner says the principal applicant is identified on the Cherokee strip payment roll of 1894 and the Cherokee census roll of 1896, but is not identified on the ~~Cherokee~~ authenticated roll of 1880.

This Office is of the opinion, in view of the foregoing, that Emma J/ Samuels, by her continuous absence from the Cherokee Nation for a long period of time, has under the provisions of section 2, article 1, of the Cherokee constitution, forfeited such right to enrollment as she may have had prior to her re-

moval. The present case seems to be analogous to th t of Clara A. Ward, (I.T.D. 5876-10132-04) and also to the case of [redacted] Vann (I.T.D. 1504-1905) .

It appears that the minor applicant herein, Robbie J. Samuels, who is identified on the Cherokee census roll of 1896, is the child of the principal applicant; was born since the latter forfeited her right to Cherokee citizenship, and possesses no right to enrollment not possessed by her mother.

On this state of the record it is recommended that the application of Emma J. Samuels for the enrollment of herself and her minor daughter, Robbie J. Samuels, (New Harrison) as Cherokee citizens by blood be denied.

Very respectfully,

C.F. Larrabee,

Acting Commissioner.

A.J.W.-NL

DEPARTMENT OF THE INTERIOR, F.W.C.
Office of the Assistant Attorney-General, J.R.W.
Washington D. C. W.C.P.

I.T.D. 5276-1905. February 9, 1907.
9131,24366-1906.

The Secretary of the Interior:

Sir:

I received by reference of December 11, 1906, for opinion, the papers in case of Emma J. Samuels and Robbie J. Samuels for enrollment as citizens by blood of the Cherokee Nation.

December 8, 1905, the Commissioner with a dissent, denied the application, and the case was remanded by the Department for further hearing and readjudication. June 27, 1906, after further hearing, the Commissioner found that Emma J. Samuels (nee Parks) is a Cherokee by blood, born in that nation about 1859, where she resided until about 1875, when she married, in Missouri, Robert Samuels, white, and soon returned with her husband to the nation, where they resided until 1878, when they left the nation, and, with the exception of occassional visits to the nation, she, with him, has ever since resided outside the Indian Territory. Her husband has exercised all the rights of a citizen of the states where they have resided for the past twenty-five years or more. The evidence fails to disclose that she left any property in the nation over which she has excersed any control or dominion. About 1884 she inherited an undivided interest in her father's estate, which she disposed of in 1893. Afterward she pur-

chased and owns a lot in Vinita, which she claims, but does not claim the house thereon. She is on the 1894 strip payment roll and census roll of 1896, but not on the 1880 roll. The Commissioner deemed she became expatriated under section 2, article 1, of the Cherokee Consititution. Robbie J. Samuels is her child, born after her leaving the nation, and has never resided in it. The Commissioner denied both applicants' right to enrollment. The Indian Office recommended approval of that action.

The record shows much reticence of the witness to disclose the residence of herself and husband and great reserve as to the motives and purposes of their absence. The evidence is in some parts pathetic in her insistance upon this silence, apparently maintained for the loyal purpose of shielding her husband from supposed harm bynits disclosures. Unexplained, considering the lapse of time, the legal presumption necessarily follows that her removal in 1878 was without intent to return and with intent permanently to identify herself and cast her lot for the future with the people of her husband and to sever from her own. I am therefore of opinion that the action of the Commissioner should be approved.

Very respectfully,

APPROVED: February 9, 1907, (Signed) FRANK L. CAMPBELL,

(Signed) E. A. Hitchcock, Assistant Attorney-General.

Secretary.

DEPARTMENT OF THE INTERIOR, S.P.

WASHINGTON,

I.T.D.2914-1907.
24366-1906.
D.C.9277-1907.

February 15, 1907.

L.R.S.

DRIECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

There is inclosed a copy of opinion of the Assistant Attorney-General for this Department of February 9, 1907, approved the same day, in the matter of the application for the enrollment of Emma J. Samuels and Robbie J. Samuels, as citizens of the Cherokee nation.

In accordance with said opinion your decision of June 27, 1906, adverse to the applicants is affirmed.

A copy of Indian Office letter of December 3, 1906, submitting the case and recommending that your decision be affirmed, is inclosed.

The papers in the case have been sent to the Indian Office with a carbon copy hereof.

Respectfully,

(Signed) Thos Ryan,

First Assistant Secretary.

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9 to Ind. Of.

REFER IN REPLY TO THE FOLLOWING:
Cherokee D
381

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

Muskogee, Indian Territory, March 6, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated June 27, 1906, rejecting the application for the enrollment of Emma J. Samuels, et al, as citizens by blood of the Cherokee Nation was affirmed by the Secretary of the Interior, February 13, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.HJ-48.
HJC

D-381

Emma J. Samuels et. al.

A. Original testimony September 21-1900
B. Memo of application " 21, 1900,
C. Notice of final consideration 2/26/02.
D. Order closing testimony 2/26/02.

OCT 12 1907 Cancelled and transferred to Cherokee R-1082

Copy of testimony filed with Cherokee Nation January 12, 1904.

Cher D 382

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 21, 1900.

In the matter of the application of Theressa Caroline Krebs for the enrollment of herself and one child as Cherokees by blood being sworn and examined by Commissioner Breckenridge, she testified as follows:

Q What is your full name? A Theressa Caroline Krebs.
Q How old are you? A 48.
Q What is your post office? A Vinita.
Q In what district do you live? A I lived in Delaware district.
Q Who is it you want to have put on the roll? A Myself and family.
Q Your husband? A My husband is dead.
Q How many children? A Two children and a grandchild.
Q Are you a Cherokee by blood? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A I lived ten years in the Choctaw Nation, with the exception of that I have lived all my life in the Cherokee Nation.
Q What ten years was that, how long ago? A I married a Choctaw in 1875.
Q Have you lived in the Cherokee Nation for the last twenty years?
A No, sir, I moved back to the Cherokee Nation in 1883, and before that I lived backward and forward, I was a Cherokee and he was a Choctaw.
Q Are you on the roll of 1880? A I don't know whether I am or not.
Q What was your name before you were married? A Griffin.
Q When were you married to your husband, Krebs? A October 7, 1875.
Q When did he die? A He died December 8, 1883.
Q What was his full name? A Edmond F. Krebs.
Q He was a Choctaw was he? A Yes, sir.
Q You have never remarried since he died? A No, sir.
Q What are the names of your children? A Edna Lora, 21 years old.
Q She must apply for herself.
A Well, my boy is 18 years old, named John Richard.
Q He is living now is he? A Yes, sir.
Q What district were you in in 1880? A I expect I was in the Choctaw Nation, if I was here I was in the Illinois district. I was admitted by the Cherokee Council in 1886.
Q Have you got your certificate of readmission? A No, sir, it is on the rolls though.
(On 1896 roll, page 481, No. 1712, Theressa C. Krebs, Delaware dist. John Richard Krebs on 1896 roll, page 491, No. 1714, John R. Krebs, Delaware district.)
Q You have lived in the Cherokee Nation ever since you were admitted in 1886? A I would go back in the winter in the Choctaw Nation, we had a home there and had one here.
Q You would just go down there for a while? A Yes, sir.
Q You will have to supply the Commission with an official copy of the act readmitting you to citizenship in 1886, you can get that by writing to Tahlequah.

The applicant applies for the enrollment of herself and one child. She claims to have been admitted to Cherokee citizenship by the Cherokee Council in 1886. She is identified on the roll of 1880 as a native Cherokee. She has visited the Choctaw Nation occasionally since her admission in 1886, but it does not appear to

Theresa C. Krebs - 8.

have been a permanent abandonment of the Cherokee Nation. She is required to furnish the Commission with an official copy of her readmission in 1896, and at present her application will be placed upon a doubtful card. Her child, John Richard Krebs, is identified with her on the roll of 1896. He is living at this time and the application for his enrollment will be placed upon a doubtful card, to await the further information required in her case. He is shown to have been born since the period that she claims to have been readmitted by the Cherokee Commission.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 21st of September, 1900.

C. A. Bennett

Commissioner.

D382

DECISION ..... OF
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 21 1900

ACTING CHAIRMAN.

CHEROKEE D 362.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 1,1902.

In the matter of the application of Theresa C. Krebs, et. al. for enrollment as Cherokee citizens.

Supplemental Statement.

--oOo--

There has been filed with this Commission a copy of an Act of the Cherokee National Council, certified by E.W. Alberty, Assistant Executive Secretary of the Cherokee Nation, under the seal of the Cherokee Nation, to be a true copy thereof, from which it appears that Theresa C. Krebs was re-admitted to all the rights and privileges of citizenship by blood on the 20th day of November, 1886.

It is directed that a copies of this statement be filed with the testimony in the above case.

Commissioner.

CHEROKEE D 388

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Theresa C. Krebs, et.al, for enrollment as Cherokee citizens.

On the 21st day of September, 1900, Theresa C. Krebs appeared before the Commission to the Five Civilized Tribes and made application for the enrollment of herself and her two children, Edna Lora and John R. Krebs, as citizens by blood of the Cherokee Nation.

At the conclusion of the evidence offered at that time applicant is advised that Edna Lora being 21 years old must make personal application for enrollment, and the names of the applicant and her son John R. were placed upon a "Doubtful" card awaiting proof of admission of Theresa C. Krebs to citizenship in the Cherokee Nation.

Further evidence in that matter has been submitted to the Commission and the following decision is rendered.

D E C I S I O N.

--oOo--

From all the evidence of record in this case it appears that Theresa C. Krebs was re-admitted to citizenship in the Cherokee Nation by an Act of the Cherokee National Council on the 20th day of November, 1884. She was born in the Cherokee Nation and resided there until her marriage to Edmund F. Krebs in 1875. Her home has been in the Cherokee Nation since 1886, and she has resided there continuously since 1893. She is identified on the Cherokee Census roll of 1896. The child John R. Krebs is the off spring of her marriage with Edmund F. Krebs. He is also identified on the Cherokee Census roll of 1896.

In making rolls of citizenship of the Cherokee Nation this Commission is governed by the following provisions of the Act of

Congress approved June 28, 1898, (30 Stats., 495):

"That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

In view of the law and the facts in this case it is considered that Theresa C. Krebs and her child, John H. Krebs are entitled to be enrolled as citizens of the Cherokee Nation, and it is so ordered.

Commissioners.

Dated at Muskogee, Indian Territory,

MAY 20 1902

COMMISSIONERS.
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

D. 322.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of Theresa C. Krebs et al for enrollment as citizens of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above persons as citizens of the Cherokee Nation. If you failto file the protest within the time allowed these applicants will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-322.

IN THE MATTER OF THE APPLICATION OF

Theresa A. Krebs et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony - September 21. 1900.
B. Memo of application - " 21. 1900
C. Certified copy of act of readmission

Sept. 12/1902 Cancelled and transferred to Cherokee [illegible]

Enrolled

See Cherokee Jacket 2383

Cher D 383

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 21, 1900.

In the matter of the application of Lora E. Krebs for the enrollment of herself and child as Cherokees by blood; being sworn and examined by Commissioner Breckenridge, she testified as follows:

Q What is your full name, please? A Lora E. Krebs.
Q How old are you? A 31 last December.
Q What is your post office? A Vinita.
Q In what district do you live? A Delaware.
Q Who is it you want to have put on the roll? A Myself and this child.
Q Are you a Cherokee by blood? A Yes, sir.
Q Were you admitted to Cherokee citizenship in 1896? A Yes, sir.
Q Have you a copy of your certificate of admission? A No, sir.
Q Have you lived in the Cherokee Nation ever since you were admitted in 1896? A Off and on, I went to the Choctaw Nation and back and forth with my mother.
Q You have claimed this as your home all the time? A Yes, sir.
Q When did you last go back from the Choctaw Nation? A We haven't lived in the Choctaw Nation since 1893, but have been back on visits twice.
Q Just short visits? A Yes, sir.
Q What is the E in your name for? A Edna.
Q Did you ever have any other name except Krebs? A No, sir.
Q What is the name of your child? A Chesnutara D. Krebs.
Q How old is the child? A He is a year old the last day of May.
Q That your own child, is it? A Yes, sir.
(Lora E. Krebs on 1896 roll, page 491, No. 1731, Esther L. Krebs, Delaware District.)
Q You have never been married, have you? A No, sir.

The applicant makes for the enrollment of herself and one child. She is identified on the roll of 1896 as a native Cherokee. She claims that she was admitted to Cherokee citizenship by the Cherokee Commission in 1896. She will be required to supply the Commission with official evidence of her admission. She gives satisfactory residence in the Cherokee Nation ever since the period of her alleged admission. Her application at this time will be placed upon a doubtful card to await the information of her admission indicated. When she presents the Commission with a proper certificate of the birth of her child, about one year of age, this child also will be listed for enrollment with its mother.

———o———

Bruce G. Jones, being duly sworn, says that he is a stenographer to the Commission to the Five Civilized Tribes; he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereon.

Bruce G. Jones

Sworn to and subscribed before me this the 21st of September, 1900.

C. R. Breckenridge

Commissioner.

Supplemental testimony in the application of Lora N. Krebs.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPTEMBER 21, 1900.

Lora N. Krebs supplements her application by the following request and statement:

Com'r Breckinridge:--She states that she has made application for enrollment as a Choctaw, but that the Choctaw Nation has protested against her enrollment. She prefers to be enrolled as a Choctaw, but if the Commission finds that the protest of the Choctaw Nation should be effectual, then she desires to exercise her rights as a Cherokee.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 24th day of September, 1900.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

CHAIRMAN
ACTING CHAIRMAN.

Cherokee D-383.

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

In the matter of the application for the enrollment of Lora Edna Krebs and her minor child, Pushmataha D. Dobbs, as citizens by blood of the Cherokee Nation.

-0-

D E C I S I O N.

The record herein shows that on September 21, 1900, Lora Edna Krebs appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of herself and minor child, Pushmataha D. Dobbs, as citizens by blood of the Cherokee Nation.

The records of the Commission further show that Lora Edna Krebs ("Edna L. Krebs") and Pushmataha D. Dobbs ("Pushmataha Dobbs"), are included in a partial roll of Choctaws by blood approved by the Secretary of the Interior, September 22, 1904, at numbers 15626 and 15627, respectively.

Section twenty-eight of the act of Congress approved July 1, 1902 (32 Stat., 716), provides:

"No person whose name appears upon the roll made by the Dawes Commission as a citizen or freedman of any other tribe shall be enrolled as a citizen of the Cherokee Nation."

It is, therefore, the opinion of this Commission that the application for the enrollment of Lora Edna Krebs and Pushmataha D. Dobbs as citizens by blood of the Cherokee Nation, should be denied, under the provisions of the Act above quoted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman

(SIGNED) T. B. Needles.
Commissioner

(SIGNED) C. R. Breckinridge.
Commissioner

Muskogee, Indian Territory,
FEB 13 1905

(C O P Y)

7-5787

Muskogee, Indian Territory, October 22, 1904

Commission to the Five Civilized Tribes,

Cherokee Enrollment Division.

Muskogee, Indian Territory.

Gentlemen:-

Receipt is hereby acknowledged of your letter of the 21st instant, requesting information relative to the enrollment of Lora E. Krebs and her minor child Pushmataha D. Dobbs as citizens by blood of the Choctaw Nation, and if their names have been placed upon the final roll. You request that their names be given together with the date of Departmental approval thereof.

You are advised that the enrollment of Edna L. Krebs and her minor son Pushmataha Dobbs as citizens by blood of the Choctaw Nation was approved by the Secretary of the Interior September 22, 1904, and their names appear opposite numbers 15626 and 15627 on the approved roll of citizens by blood of the Choctaw Nation.

Respectfully,

Tams Bixby
Chairman.

Cmmcl

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

Cherokee D-383.

Muskogee, Indian Territory, November 21, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed copy of a letter of October 22, from Choctaw-Chickasaw Enrollment Division relative to the enrollment of Lora E. Krebbs, et al., as citizens by blood of the Choctaw Nation, same to be made a part of the record in Cherokee D-383.

Respectfully,

Chairman.

Incl. S-57.

D610

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BERCHINRIDGE,
WM. O. BEALL,
Secretary.

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

GIVE IN REPLY TO THE FOLLOWING

~~Cherokee D-383.~~

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, February 13, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated February 13, 1906, rejecting the application for the enrollment of Lora Edna Krebs, and her minor child, Pushmataha D. Dobbs, as citizens by blood of the Cherokee Nation.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Chairman.

Encl. L-20

E.B.W.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.
WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

REFER IN REPLY TO THE FOLLOWING:
Cherokee D-383.

Muskogee, Indian Territory, June 10, 1905.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated February 13, 1905, rejecting the application for the enrollment of Lora Edna Krebs, et al, as citizens by blood of the Cherokee Nation, was affirmed by the Secretary of the Interior on June 1, 1905.

Respectfully,

Chairman.

D

10383

IN THE MATTER OF THE APPLICATION OF

Lorra E. Dobbs et al

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1. Original testimony - September 21, 1900
2. Memo of application - " 21, 1900
3. Additional testimony - " 21, 1900
4. Birth affidavit - Pushmataha Dobbs

Cancelled and transferred to Cherokee R 940

See Cherokee Jacket C 392.

Cher D 384

DEPARTMENT OF THE INTERIOR.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, I. T. September 21, 1900.

IN THE MATTER OF THE APPLICATION OF JANE WALTON FOR THE ENROLLMENT OF HER CHILD, MINNIE EVA WALTON, AS A CHEROKEE CITIZEN.

The said Jane Walton, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give your full name please. A Jane Walton.
Q How old are you? A Thirty-six.
Q What is your post office? A It is Seneca, Missouri now. I have been living there about six months, I guess.
Q In what district do you live? A I don't know whether it is in a district or not.
Q Who is it you want to put on the roll? A My daughter here. This child.
Q What is the child's name? A Walton.
Q What is the full name of the child? A Minnie Eva Walton.
Q How old is this child? A She is going on ~~[illegible]~~ six, five years old.
Q Has this child ever been enrolled as a Cherokee?
A Yes, sir.
Q Do you claim to be a Cherokee? A No, sir.
Q What do you call yourself? A I am an Eastern Shawnee.
Q Is this child's father a Cherokee? A A Cherokee Shawnee. An adopted citizen.
Q Give me the name of this child's father. A George S. Walton
Q How old is he? A He must be about forty, if he is living, about forty or forty one.
Q He would be? A Yes sir.
A Yes, sir.
Q He was a Cherokee Shawnee, was he? A Yes, sir.
Q How long has he been dead? A Four years it will soon be.
Q Did he live in the Cherokee Nation all his life?
A Yes, sir.
Q Does this child live in the Cherokee Nation? A Yes, sir.
Q What district was your husband in in 1880? A I think he was in Cooweescoowee.
1880 Roll, page 344, No. 3101, George Walton, Delaware District.
Q You are not enrolled with your husband at all? A No, sir.
1896 Roll, page 353, No. 407, George G. Walton, Cooweescoowee District.
1896 Roll, page 353, No. 409, Willie Johnstine Walton, Cooweescoowee District. (Note: Mother Minnie F. Walton is marked rejected on original Cherokee list.)
Q Is that you? A No, that is Mr. Walton's first wife.
Q Is this our child? A Yes, sir; but his first wife has two Boys, Oscar and Tom Walton.
Q This is not the child enrolled in 1896? A Yes, sir; it is.
Q Why do they put that note in that way about this child?
A I don't know.
Q It was his first wife then that applied and was rejected?
A Yes, his first wife.

Q Was she dead when you married your husband? A No, sir; she separated and then married another man.

Q Did your husband have a divorce from her when he married you? A Yes, sir.

Q Have you got a certificate of the marriage to your husband? A Yes, sir; I have got it at home, but I didn't think I would have to have it.

Q Have you got the decree of divorce from the first wife? A No, sir; she must have got it.

Q Where was that divorce procured? A I think at Claremore.

Q Then what year was he devorced from his wife? A Well, I couldn't recollect in what year it was.

Q What year was ityou were married to him? A About 1894, I think.

THE COMMISSIONER: The applicant applies for the enrollment of her child Minnie E. Walton. The child's father is identified on the roll of 1880. The applicant claims to be the widow of the child's father, who was killed some four years ago, and does not claim that she herself is a Cherokee citizen, but that she is an Eastern Shawnee. The child is identified on the roll of 1896. The application for its enrollment will at this time be placed upon a doubtful card, in order that further consideration may be given to the questions involved therein. When a final decision is reached it will be communicated to the applicant at her post office address. And she is desired to supply the Commission with the original or an official copy of her marriage certificate, and further evidence, if practicable, of her husband's having been divorced from his first wife.

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The undersigned, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and other proceedings in this application for enrollment and that the foregoing is a correct and complete transcript of his stenographic notes thereof.

W. S. Mellen

Subscribed and sworn to before me this 3rd day of October A. D. 1900.

C. W. Bear

Commissioner.

0384

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 8 1900

ACTING CHAIRMAN

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D 264

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 24, 1902.

In the matter of the application of Minnie E. Walton, for the enrollment of herself as a citizen of the Cherokee Nation.

Applicant was notified by registered letter on February 10, that her application to be enrolled as a citizen of the Cherokee Nation, would be taken up by the Commission for final consideration on the 26th day of February, 1902, and that she could on said date appear before the Commission, in person or by attorney, and an opportunity would be given her to introduce any additional testimony affecting her application.

She was also requested to supply the Commission with a certified copy of the marriage license of herself and George B. Walton; also a certified copy of the decree of divorce of her father from his former wife Minnie E. Walton.

Applicant being called this day, to-wit: the 26th day of February, 1902, three times, and failing to respond either in person or by attorney, the case is ordered closed and reported to the Commission for a final decision based upon the evidence now of record.

Commissioner.

a.D.M.?

Cherokee D-384.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of Minnie Eva Walton as a citizen of the Cherokee Nation of Shawnee blood.

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D E C I S I O N.

The record herein shows that on September 21, 1900, Jane Walton appeared before the Commission at Vinita, Indian Territory, and made application for the enrollment of her minor child, Minnie Eva Walton as a citizen of the Cherokee Nation of Shawnee blood. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 26, 1902.

The evidence herein shows that one George S. Walton, a Shawnee Indian, and a recognized citizen of the Cherokee Nation, and who is identified on the Cherokee authenticated tribal roll of 1880 and the Cherokee census roll of 1896, is the father of the applicant, Minnie Eva Walton.

The evidence further shows that the said Minnie Eva Walton was born since 1880, has lived in the Cherokee Nation since birth, and is identified on the Cherokee census roll of 1896.

It is, therefore, the opinion of this Commission that Minnie Eva Walton should be enrolled as a citizen of the Cherokee Nation of Shawnee blood, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

(SIGNED) C. R. Breckinridge.
Commissioner.

Muskogee, Indian Territory,
this JAN 16 1905

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
WM. O. BEALL,
Secretary.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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

Omm R

REFER IN REPLY TO THE FOLLOWING:
Cherokee
D 364

Muskogee, Indian Territory, January 16, 1905

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory,

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 16, 1905, granting the application for the enrollment of Minnie Eva Walton as a citizen of the Cherokee Nation of Shawnee blood .

You are hereby advised that you will be allowed fifteen days from date hereof within which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which you will be required to furnish the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Chairman

Encl. B 96

IN THE MATTER OF THE APPLICATION OF

Minnie E. Walton

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

1. Original testimony - September 21, 1900
2. Memo application " 21, 1900
3. Notice of final consideration 2/26/02
4. Order closing testimony 2/26/02

Copy

Freedman

FEB 4 1905 Transferred to Cherokee 10855

Cher D 385

DOCTRINE, IS TO APPLICANT.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September 21, 1900.

In the matter of the application of John K. Barlow for the enrollment of himself and two grand-children as Cherokee citizens; being sworn and examined by Commissioner Breckinridge he testified as follows:

Q What is your full name? A John K. Barlow.
Q How old are you? A Eighty.
Q What is your post-office? A Fetchum.
Q What district do you live in? A Delaware.
Q Who is it you want to have put on the roll, yourself?
A Myself, and I have got a wife, she belongs on the Freedman roll.
Q Have you got any children? A I have grand-children, two.
Q Are they orphans? A Yes sir, no father and no mother.
Q You apply for yourself and two grand-children? A Yes sir.
Q Are you a Cherokee? A No sir.
Q What are you? A Quapaw.
Q You are a Cherokee by adoption then? A Yes sir.
Q Do you claim through your wife? A Yes sir.
Q She is a freed woman? A Yes sir,- I have got two wives, one dead and one living.
Q Your wife that's living now, she is a freed woman? A No, she is a Cherokee woman; I have been married twice with Cherokee women.
Q You have been married three times? A Yes sir.
Q Why didn't you come up to it,- you said twice? A I have been married three times- to a wives- two Cherokee women, and a freed woman.
Q Your last wife a Cherokee? A Yes sir.
Q Is she living now? A No.
Q You have got no wife now? A Yes, my last wife is a Cherokee woman, and run off and left me.
Q You claim through this last wife? A I don't know.
Q Have you got a certificate of marriage? A No sir.
Q What was the name of your first wife? A Eliza Green.
Q What was she? A Full-blood Cherokee.
Q When did you marry her? A I don't know, it has been long time.
Q Is she dead? A Yes sir, she is dead.
Q When did she die? A It has been many years ago. She died before the war.
Q Who was your next wife? A Lettie Keen.
Q What was she; a Cherokee? A Full-blood Cherokee.
Q When did you marry her? A I can't tell you.
Q Did you marry her after your first wife died? A Yes sir.
Q Is she dead? A No sir, she leave me for another man.
Q Did you get a divorce from her? A Yes sir.
Q Have you got a copy of that divorce? A No sir.
Q What you got a divorce did you? A Yes sir, I got a divorce.
Q Where did you get that divorce? A Went to Tahlequah and got it; that's where that woman is living now.
Q When did you get that divorce? A I can't tell you.
Q What was the name of your next wife? A When I got a divorce from that in then you married again? A Yes sir.
Q Who was it you married that time? A Lizzie Jim.
Q Did you sir, when you got a divorce from your last wife?
A Yes sir.
Q When did you marry this wife, Lizzie Jim? A It will be fifteen years ago now.
Q Have you got a certificate of your marriage? A No sir.
Q Have you got proof of any of your marriages? A Yes sir.
Q What have you got? A Nothing, only witnesses.
Q Did you never get a license? A No sir.
Q Is Lizzie Jim living now? A Yes sir.
Q Is she living with you? A She is living with me.
Q What is she, Cherokee? A She is part Cherokee and part

colored.
Q Was Lottie Keen your wife when you were enrolled in 1880?
A I don't remember.
Q What district enrolled Ben in? A Delaware.
Q Was she with you then? A Yes sir, there's where I was living.
Q Always lived in Delaware? A Yes sir.
1880 roll for wife Lindy Ben, name not found;
1880 roll page 223 # 100 John Barlow Delaware District, A Mexican; Name on rolls Adopted Mexican, was adopted by the Shawnee;
1896 roll page 299 #83 John N. Barlow, Delaware District.
Q You have lived in the Cherokee Nation how long? A Since '80
Q Give me the name of these two children? A Susie Lynch.
Q How old is that child? A Twenty.
Q What is the name of the next child? A Julia Davis.
Q How old is that child? A Twelve-year-old.
Q What was the name of the mother of this first child? A Martha Ann Barlow.
Q She was your daughter, was she? A Yes sir.
Q With one of your wives was she the daughter of? A The first wife; I got married when I was young.
Q She is the daughter of Eliza Green? A Yes sir.
Q When did Martha Barlow die? A It has been about twenty years ago.
Q When this child, Susan Lynch, was born? A Yes sir.
Q What is the name of the father of this child? A Tobe Lynch.
Q Was he a Cherokee or a white man? A Half Cherokee and half blood and half colored.
Q When did he die? A He is living.
Q You told me the child was an orphan? A It is an orphan by its mother, its father is dead.
Q Where is this child's father, Tobe Lynch? A He is down on the River in the Nation.
Q What was the name of the mother of this child, Julia Davis.
A Julia Barlow.
Q She was your daughter? A Yes sir.
Q When did she die? A About twelve years ago.
Q Who was Julia Barlow's mother? A My wife, Susie Keen.
Q Give me the name of the father of Julia Davis? A I don't know his right name, they called him Doctor Davis; used to live here in this town.
Q Was a white man? A Yes sir, white man.
Q Is he living or dead? A He is dead.
Q How long has he been dead? A It has been about five years.
Q You have no marriage certificates about any of these marriages have you? A No sir.
1880 roll page 281 #1564 Martha Lynch Delaware District;
Note on roll: Now wife of Tobias Lynch.
1880 roll page 281 #1563 Tobias Lynch, Delaware.
1896 roll page 281 #1565 Susie Lynch, Delaware; An Adopted Shawnee
1896 roll examined for a claimant's wife, Lindy Ben or Barlow, and name not found;
1880 roll examined for wife, Lottie Barlow or Lottie Keen and name not found;
1880 roll examined for wife, Eliza Green or Eliza Barlow, and name not found thereon.
1896 roll page 427 #247 Susie Lynch, Delaware District, Shawnee, orphan, raised by J. N. Barlow.
1896 roll page 601 #133 Julia Davis, Delaware Dist, Shawnee, 2 yrs old
Q These children both living now are they? A Yes sir.

Gov'r Brookbridge: The applicant applies for the enrollment of himself and two grand-children, both of whom are minors and have been for aught as by him; he is identified on the rolls of 1880 and 1896 as an adopted Mexican; he has been married three times, highest marriage being fifteen years ago, and it being the

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John M. Barlow et al #

[illegible] white when his commonwealth took place; neither his present wife nor his seven children are identified upon the roll of 1880; his present wife is not identified upon the roll of 1896; it is a question of fact as to whether or not he has lost his rights as an adopted citizen of the Shawnee Nation by a later marriage, and his application for his own enrollment at this time will be placed upon a doubtful card.

As for the two grand-children, the first one is named [illegible] Smith; that child is nineteen years old; she is identified upon the rolls of 1880 and 1896 as an adopted Shawnee; she is living at this time, and will be listed for enrollment as an adopted Shawnee. The second child, Julia Davis, is identified on the roll of 1880 as an adopted Shawnee; her mother is identified on the roll of 1880 as an adopted Shawnee; the children living at this time and will be listed now for enrollment as an adopted Shawnee.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a full and true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this 24 day of September 1900.

C A Phillips

Commissioner.

a D385

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

ACTING CHAIRMAN.

SUPPLEMENTAL; D 385, Cherokee.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., May 30,1901.

In the matter of the application of John M. Barlow for enrollment as a Cherokee citizen by Shawnee adoption; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Appearances:
Mellette, of Mellette & Smith, for applicant;
W. W. Hastings, Cherokee Representative.

Q Give your name? A John M. Barlow.
Q How old are you? A I don't know. About, I guess, about 70, maybe, or 60.
Q What is your post-office? A Ketchum.
Q By Mr. Mellette:--
Q When did you come to the Cherokee Nation, John? A In '70, in the fall.
Q Have you lived in the Nation all the time since then? A All the time in the same place where I live, I have never been nowhere.
Q Are you the John M. Barlow whose name is on the roll of Shawnees, 772 Shawnees who came from Kansas with the Shawnees under the Treaty between the Cherokees and Shawnees? A Yes sir.

Com'r Breckinridge: The name of John M. Barlow appears upon the printed roll of Shawnees in the possession of the Cherokee Representatives, being those who moved to and located in the Cherokee Nation prior to the 10th of June, 1871;

It is contended by counsel of the applicant that in as much as the applicant is on the register of the names of members of the Shawnee Tribe of Indians who have moved to and located in the Cherokee Nation, Indian Territory prior to the 10th day of June, 1871, within two years from the 9th day of June, 1869, in accordance with an agreement entered into by and between the Shawnee Tribe of Indians and the Cherokee Nation of Indians, through their delegates in Washington, D. C., on the 7th of June, 1869, and approved by the President of the United States on the 9th of June, 1869, in accordance with the 15th article of the Cherokee Treaty with the United States, proclaimed August 11th, 1866,- therefore, the applicant was fully and finally admitted by the Cherokee Nation as a member of the Shawnee Tribe, and that his right as an adopted Shawnee of the Cherokee Tribe cannot afterwards be called in question on the ground of his having originally acquired his status as a Shawnee by intermarriage, any more than if he had acquired it by birth.

On the other hand, the Cherokee Representative present contends that if by showing in any responsible, and perhaps sufficient, manner, as for instance, by the roll of 1880, that the applicant was an intermarried adopted Shawnee, that he could lose his right by marrying out of his Cherokee citizenship as provided by Cherokee law for the loss of Cherokee citizenship by intermarriage in other cases not in dispute.

By Cherokee Representative W.W.Hastings: And further, that the Act of Congress make the authenticated roll of 1880 conclusive as to the status of the applicant at that time.

Com'r Breckinridge: This will be made supplemental to the applicant's case, Cherokee Doubtful card 385.

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John M. Barlow Supplemental 2

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this May 31, 1901.

Commissioner.

D Cherokee
D 385

"R"

Cherokee D 385

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I T., February 25, 1902.

SUPPLEMENTAL PROCEEDINGS in the matter of the application of John M. Barlew for enrollment as a Cherokee Citizen.

Appearances:
Mr. Mellette, of Mellette & Smith, Vinita, I.T., attorneys for the applicant;
Mr. W. W. Hastings, attorney for the Cherokee Nation.

BY COMMISSION: The applicant and his attorneys were notified by registered letter February 10, that this case would be taken up for final consideration by the Commission on the 25th day of February, 1902. He this day appears by his attorneys Mellette & Smith, Vinita, I. T.

BY MR. MELLETTE: The applicant is a registered shawnee and I want the certificates attached to the roll of 772 registered Shawnees entered in full in the testimony.

BY COMMISSION: The attorney for the applicant and the representative of the Cherokee Nation present submit this case to the Commission and same is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

The attorney for the applicant requests and will be granted 15 days in which to file a brief in this case, one copy with the Commission and one copy with the representatives of the Cherokee Nation.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this February 27, 1902.

Commissioner.

D E P A R T M E N T O F T H E I N T E R I O R,

Commission to the Five Civilized Tribes,

Muskogee I. T. April 8th 1902.

Cherokee ~~NBK~~ D No 385.

In the matterof the application ofJohn M. Barlow for enrollment as a citizen of the Cherokee Nation.

BRIEF OF THE CHEROKEE NATION.

The testimonyin this case shows that John M. Barlow is a Mexican and not of Cherokeeor Shawnee blood, he admits it in his testimony and appears upon the roll of 1880 as such adopted Mexican and since the death of his Shawnee wife he has since intermarried with two women neither of whose names appear upon the roll of 1880 or are recognized citizens of the Cherokee Nation and the Cherokee Nation contends that under section ~~xxxxxxxxxxxxxxxxxxxx~~ 666 of the CompiledLawsof the Cherokee Nation he has forfeited his right to be enrolled as a citizen of the Cherokee Nation by intermarriage.

We contend that his status as shown by the roll of 1880 was fixed and determined by section 21 of the Curtis Bill which provides that " The Commission to the Five Civlized Tribes is authorized and directed to take the roll of Cherokee citizens of Eighteen hundred and eighty as the only roll intended to be confirmed by this and preceding acts of Congress"

Prior to June 10 1896 the question of a persons citizenship status was for the Cherokee Nation alone to determine and when the roll of 1880 was made it was made by the Cherokee authorities alone. The Cherokee Authorities at that time had unquestionedjurisdiction to determine who its citizens were and their status. The status of the applicant was fixed by that roll. The CherokeeNation is estopped from denying or attacking it and we contend that the applicant is as equally bound by the roll of 1880 as is the Cherokee Nation.

The Commission to the Five Civlized Tribes is authorized to take the roll of 1880 and we contend that it is powerless to change or vary it and we contend that it is concluded by what the 1880 roll says of the status of the applicant and if that be true he is not a citizen of the Cherokee

Nation to all intents and purposes, a white man and a subsequent intermarriage with two women not citizens of the Cherokee Nation clearly forfeits his right to be enrolled as a citizen of the Cherokee Nation.

Prior to June 10th 1896 any citizenship that had been granted previously could be taken away by the Cherokee Nation as determinedby the Supreme Court of the United States on appeal from the Chicasaw Nation in the Roff case wherein it was decided that the power that could confer citizenship could take it away and we submit that if this applicant is given citizenship in the Cherokee Nation by virtue of the fact that he was married to a Shawnee woman that it did not make him a citizen by blood and while he may have had all the rights of a Shawnee woman that did not prevent him from being in a position to forfeit his citizenship as any other white man in the Cherokee Nation who has intermarried with a Cherokee woman because any intermarriedcitizen of theCherokee Nation has the same property rights as a Cherokeeby blood..

It certainly never was intended to grant white people citizenship in the Cherokee Nation except along with their Indian wives.

If the CherokeeLaws and Cherokee customs are of any force with the Commission he will not be enrolled in as much as when the roll of 1880 was authenticated, the National Council, after a full examination of the case, fixed his status as an adopted Mexican, being the same as an intermarried white man and this roll was authenticated by the National Council and has for twenty years not been attacked by the applicant; he did not seek to have it changedin any way but abided by it and acquiesced in it. We submit that it is the duty of this Commission to take the roll of 1880 as they find it and it isnot within the jurisdiction of this commission to change one status from the way his name appears upon the 1880 roll and if this be true the applicant has forfeited his right to enrollment in the CherokeeNation by his subsequent intermarriages with two women who were not citizens of the Cherokee Nation.

Respectfully submitted,

W W Harding

Attorney for the Cherokee Nation.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of John M. Barlow as a citizen of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 21, 1900, John M. Barlow appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment, among others, of himself as a citizen of the Cherokee Nation. Further proceedings in the matter of said application were had at Chelsea, Indian Territory, on May 30, 1901, and at Muskogee, Indian Territory, on February 25, 1902. The other parties to the application are differently classified, and are not embraced in this decision.

The evidence shows that the said John M. Barlow is on the roll of the 779 Shawnees who removed to and located in the Cherokee Nation prior to the tenth day of June 1871, as provided by the treaty between the Cherokees and Shawnees, approved by the President of the United States on the ninth day of June, 1889. Said treaty provides:

"And it is further agreed by the parties hereto that in consideration of the said payments and acts agreed upon, as hereinbefore stated, that the said Cherokees will receive the said Shawnees - referring to those now in Kansas, and also to such as properly belong to said tribe who may be at present elsewhere, and including those known as the Absentee Shawnees now residing in Indian Territory- into the country of the said Cherokees, upon unoccupied lands east of 96°, and that the said Shawnees shall be incorporated into and ever after remain a part of the Cherokee Nation, on equal terms in every respect, and with all the privileges and immunities of native citizens of said Cherokee nation; provided, that all of said Shawnees who shall elect to avail themselves of the provisions of this agreement, shall register their names, and permanently locate in the Cherokee country, as herein provided, within two years from the date hereof, otherwise they shall forfeit all rights under this agreement."

The said John M. Barlow is identified on the 1880 authenticated tribal roll of the Cherokee Nation, and on the 1896 Census Roll of said Nation.

The evidence further shows that the said, John M. Barlow has lived in the Cherokee Nation ever since 1870, and that he was a resident of said nation at the date of the application herein.

It is, therefore, the opinion of this Commission that John M. Barlow should be enrolled as a citizen of the Cherokee Nation in accordance with the provisions of section twenty-one of the Act of Congress, approved June 28, 1898(30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Acting Chairman.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this AUG 11 1902

DEPARTMENT OF THE INTERIOR,

Commission to the Five Civilized Tribes,

Muskogee, I. T. August 26th 1902.

In the matter of the application of John M. Barlow for enrollment as a citizen of the Cherokee Nation of Nonidem Blood.

C. N 385.

The Cherokee Nation desires to protest against the decision of the Commission rendered in this case on August 11th 1902 and asks that the same be forwarded to the Honorable Secretary of the Interior for review.

For grounds of said protest the Honorable Secretary of the Interior is referred to the brief filed by the Cherokee Nation in this case which is asked to be forwarded with the papers setting forth the reasons why the Cherokee Nation does not believe that the applicant is entitled to be enrolled as a citizen of the Cherokee Nation.

Respectfully submitted,

W W Hastings

Attorney for the Cherokee Nation.

J. C. S.

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE APPLICATION OF JOHN M. BARLOW, FOR THE ENROLLMENT OF HIMSELF AS A CHEROKEE CITIZEN.

CHEROKEE DOCKET. # 385.

The testimony in this case shows that the applicant, John M. Barlow, came to the Cherokee Nation as a member of the Shawnee Tribe of Indians in 1870, under and by virtue of the treaty between the Cherokees and Shawnees.

His name appears upon the roll of 772 Shawnees who were received into the Cherokee tribe by the authorities of the Cherokee Nation, and were registered according to the provisions of the treaty.

The agreement between the Shawnees and Cherokees was concluded June the 7th, 1869, and provided in substance, that the Shawnees residing in Kansas and elsewhere, should be received as citizens of the Cherokee Nation in consideration of certain funds being transferred by the Shawnees for the use and benefit of the Cherokee Nation. Said treaty, in full, is to be found upon page 403, of The Laws of the Cherokee Nation, Compiled in 1892. Said agreement provides, among other things, as follows:

"/.../ that the said Shawnees shall be incorporated into, and ever after remain a part of the Cherokee Nation, on equal terms in every respect and with all the privileges and immunities of native citizens of said Cherokee Nation; provided, that all of said Shawnees who shall elect to avail themselves of the provisions of this agreement shall register their names and permanently locate in the Cherokee country as herein provided within two years from the date hereof. Otherwise, they shall forfeit all rights under this agreement."

The testimony shows that this applicant arrived in the Cherokee Nation in the year 1870, and that he has lived here continuously since that time. He was registered as one of the 772 Shawnees coming to the Cherokee Nation under the agreement aforesaid, and the late chief of the Shawnee tribe of Indians, Chas. Rogers, and the assistant chief Chas. Tucker, upon the 3rd, day of Aug. 1871, certified that said roll of said 772 Shawnees was a true copy of the register of the names of the members of the Shawnee Tribe of Indians who had moved to, and located in the Cherokee reserve Indian Territory, in

8. John E. B.

accordance with the aforesaid agreement.

On the 14th, day of Aug. 1871, Lewis Downing, principle chief of the Cherokee Nation, certified that this list of 772 Shawnees was a true and correct roll of the members of the Shawnee tribe of Indian who located in the Cherokee Nation under the aforesaid agreement.

A copy of the aforesaid certificates are to be found in the office of the Commissioner of Indian Affairs, and a certified copy thereof has been filed in the case of George W. Franklin, et al, Cherokee Doubtful, # 516.

The applicant herein was not received into the Cherokee Nation as a white adopted Shawnee, or as a white man, or a Mexican, but as a member of the Shawnee Tribe of Indians, regardless of his blood and it is clearly immaterial in this case what the blood of the applicant is, as he purchased his right in the Cherokee Nation and was received as a member of the Shawnee Tribe of Indians. He has all the right of a native Cherokee, or a Shawnee Indian by blood who came into and to the Cherokee Nation.

The Shawnees migrating to the Cherokee Nation under the treaty aforesaid stand in the same attitude as the Delawares who came also under agreement. The Supreme Court of the United States, in case of the Cherokee Nation vs. Journeycake, a case wherein rights of the Delawares in the Cherokee Nation were in controversy, Book 39, L.ed. U.S. page 150, used the following language:

"In matters, not presented other than the language of the agreement, the conclusion would seem irresistable that the registered Delawares, that is those of the tribe who chose to remove from Kansas to the Indian Territory, were not only to become members of the Cherokee Nation, but also to stand equal with the native Cherokees in all the rights springing out of citizenship in the Cherokee Nation; whatever rights the Cherokees had, the registered Delawares were to have, and it was an equality not limited to the living Delawares; but to guard against any misconception there was an express declaration that the children of the registered Delawares should in all respects be regarded as native born Cherokees. This last clause was not inserted in the view of giving additional rights to such children, but to prevent any question as to their inheritance of all the rights which their fathers received under the agreement."

In case of the Cherokee Nation vs. John Blackfeather, a case which was before the Supreme Court of the United States for the purpose of determining the rights of the Shawnee Indians, Book 39, L.ed.

#3. John H. B.

U. S. page 126, the Supreme Court of the United States used the following language:

"The rights of the petitioners are to be determined by this agreement in the light of Art. 15 of the treaty(meaning the tribe of 1866) between the Cherokee Nation and the United States. The principle difference between this contract and that made between the Cherokees and the Delawares, consists in the fact that in this there is no provision for the purchase of homes or any payment of funds on account thereof into the National fund of the Cherokees; but nevertheless, there is the express stipulation that the said Shawnees shall be incorporated into, and ever after remain a part of the Cherokee Nation, on equal terms in every respect and with all the privileges and immunities of native citizens of said Cherokee Nation. For the reason stated in the opinion in the former case (meaning the Delaware case). it must be held that this stipulation secured to the Shawnees equal rights with the native Cherokees, in that which was the common property of the Cherokee Nation, towit:- The reservation and the outlet, as well as all profits and proceeds thereof."

The applicant is practically a native Cherokee. No matter what his blood he can not "Deny out" nor divest himself of Cherokee citizenship in any way, other than can be done by a full blood Cherokee.

We respectfully submit that the applicant is entitled to enrollment.

Mellette & Smith
Attorney's for Applicant.

See brief in Geo. W. Franklin Cherokee Doubtful No 516. for full discussion

Cherokee Nation
No. 385
John M. Barlow
Brief &c
Mellette Smith
Copy for Cherokee Nation

Muskogee I. T. April 8th 1902

Messrs Mellette & Smith,

Vinita I. T.

Gentlemen,-

Inloced herewith find brief in the case of

John M. Barlow Ne Cherokee D 585.

Yours truly,

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 385.

Muskogee, Indian Territory, August 13, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Sir:

There is herewith transmitted a copy of the decision of the Commission to the Five Civilized Tribes, rendered August 11, 1902, granting the application for the enrollment of John M. Barlow as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from date hereof in which to file with the Commission such protest as you desire to make against its decision. If you fail to file a protest within the time allowed, this decision will be considered final.

Very respectfully,

Acting Chairman.

Enc. C. No. 54.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 385.

Muskogee, Indian Territory, September 29, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commission to the Five Civilized Tribes, granting the application of John M. Barlow for the enrollment of himself as a citizen of the Cherokee Nation, a copy of which decision was furnished you on August 12, 1902, has this day been transmitted to the Secretary of the Interior for his review and decision.

The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Acting Chairman.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 386.

Muskogee, Indian Territory, November 8, 1902.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, of date August 11, 1902, granting the application of John M. Barlow for the enrollment of himself as a citizen by adoption of the Cherokee Nation, was affirmed by the Secretary of the Interior on October 31, 1902.

Respectfully,

C. R. Breckinridge.

Commissioner in Charge.

D 385

IN THE MATTER OF THE APPLICATION OF

John M. Barlow

FOR ENROLLMENT AS

CHEROKEE CITIZENS

Copy of Barlow's testimony at Nelson Supplemental filed —

IN THE MATTER OF THE APPLICATION OF

John W. Barlow

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 21, 1900
B. Mem. of application " 21, 1900
C. Receipt for fees
D. Supplemental testimony May 30/02
E. Notice of final concurrence 2/26/12

F. Order closing testimony, Feb. 25, 1902
G. Brief of attorney

See Cherokee Jacket 3239

Cher D 386

TESTIMONY OF [illegible] AND JOHN J. DAVERON.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., September [illegible], 1900.

In the matter of the application of Lucella Daveron for the enrollment of herself, husband and children as Cherokee citizens, being sworn and examined by Commissioner Brookbridge she testified as follows:

Q What is your name? A Lucella Daveron.
Q How old are you? A I am supposed to be about twenty-seven or eight years old.
Q What is your post-office? A White City.
Q What is your district? A Coweskoone, I reckon.
Q Who is it you want to have put on the roll? A Myself and three children and my husband.
Q Is your husband here with you? A Yes sir. (Husband called)
Q This is your husband is it? A Yes sir.
Q Do you apply for yourself as a Cherokee by blood? A Yes sir.
Q Is your husband a Cherokee or a white man? A He is a white man.
Q How long have you lived in the Cherokee Nation? A All my life, born and raised here.
Q Have you been married more than once? A Yes sir, I was married twice.
Q What was the name of your first husband? A Joseph Rose.
Q White man or a Cherokee? A He is a Dutchman, white man.
Q Dead or alive? A He is alive.
Q When did you marry him? A I declare I couldn't tell you.
Q About how long ago? A I reckon it has been about thirteen or fourteen years ago; I was not thirteen or fourteen years old.
Q How long did you live with him? A I couldn't tell you that. Somewhere I reckon about a year or two.
Q Was you been divorced from him? A Yes sir.
Q Have you a copy of the decree of divorce? A No sir.
It was on the clerk's books when you got the license;
Q It was on the clerk's books when you got the license for your present marriage? A Yes sir.
Q You were married after that? A Yes sir.
Q Who was it you married that time? A Tom Daveron.
Q He is a white man is he? A He is an Indian.
Q That your present husband? A Yes sir.
Q When did you marry him? A About 1892.
Q Have you got a marriage license and certificate? A There's the certificate. (Produces paper)
Don't breach rules: The application presents duly authenticated marriage license issued by the Clerk of Cooweescoowee District June 3 1892 authorizing marriage between Samuel A. Lucella Daveron and John J. Daveron; the certificate shows the marriage ceremony was performed by the Clerk on the same date; these papers are filed herewith.
Q You on this husband lived the other over since you were married? A Yes sir.
Q He is living with you now? A Yes sir.
Q That's this man standing here? A That's this man standing here.

JOHN J. DAVERON, being sworn and examined by Commissioner Brookbridge testified as follows:

Q What is your name? A John J. Daveron.
Q How old are you? A About twenty-eight.
Q What is the name of your father? A Samuel Daveron.
Q Dead or alive? A Dead.
Q Give me your mother's name? A Mary Daveron.
Q Dead or alive? A Living the last I heard of her, [illegible]

Q. Where did you live before you came to the Cherokee Nation?
A. Kentucky.
Q. What part of Kentucky? A. Northeastern part.
Q. What county did you live in? A. Lawrence County.

APPLICANT RE-CALLED:

Q. Give the name of your father? A. Frederick Freeman.
Q. He is dead? A. Yes sir.
Q. White man? A. Yes sir.
Q. Your mother's name? A. Martha Freeman.
Q. She is alive? A. Yes sir.
Q. Cherokee? A. Yes sir.
Q. You have lived in Oklahoma all the time you have been? A. Yes sir.
Q. Give me now the names of your two children? A. Samuel David Dawson.
Q. How old is that child? A. I couldn't tell you, I don't write. (Applicant hands paper to Commissioner.)
Q. Was born in November 1891, that's what you have got down here on this memorandum? A. Yes sir, I think so.
Q. The next child? A. William Othello Dawson.
Q. He was born in 1895? A. I think so.
Q. Then you have got another one named Richard C.? A. Richard C. This is the paper I had filled out for him. (Hands Commissioner birth affidavit.)
Q. Richard Clayton Dawson? A. Yes sir.
Q. About a year old? A. Yes sir.
Q. These children all living now are they? A. Yes sir.

Examined by the Cherokee Representative Baugh:

Q. You say you were divorced from your former husband? A. Yes sir.
Q. In what year? A. I couldn't tell you exactly, somewhere in 1891 I think.
Q. Was he a white man? A. Yes sir, he was a Dutchman.
Q. Do you know where he is? A. He is dead long ago.
Q. Did he ever remarry? A. No sir.
Q. What was the cause of your separation? A. To be plain I reckon it was because he didn't keep nothing to go on.
Q. Did you sue for a divorce? A. Yes sir.
Q. He was married under Cherokee law? A. No sir, he was married under White Man's law. Preacher King married us.

By Com'r Breckinridge:

Q. He never married you according to Cherokee law? A. No sir.
1880 roll page 164 Lewis F. W. Dawson Cherokee, native Cher;
1890 roll page 164 Lewis Lonella Dawson Cherokee, native Cher;
1896 roll page 164 Lewis F. Dawson " " "
1896 roll page 164 Alice Samuel D. Dawson " "
1896 roll page 164 Alice W. O. Dawson " "

Com'r Breckinridge: The applicant applies for the enrollment of herself, her husband and two children; her husband appears with her in the caption of the application; she is identified on the rolls of 1880 and 1896 as a native Cherokee, who has lived in the Cherokee Nation all her life and is entitled now for enrollment as a Cherokee by blood; her husband is identified with his wife on the roll of 1896; he is shown by the marriage license and certificate filed herewith to have been married to her in accordance with Cherokee law in 1890; they have lived together in the Cherokee Nation ever since; his wife claims to have been divorced from her former husband; and to look at the request of the Cherokee representative present the enrollment of her husband will for the present be held under consideration to await the production of more conclusive proof of her having been divorced from her former husband; the application for his enrollment will at

Tamella Duncan et al A

this time [illegible] land [illegible] white [illegible].

The two children [illegible] and William [illegible] Duncan, are identified with [illegible] Cherokee [illegible] of 1896. They are both living at this time and [illegible] have been [illegible] enrollment as Cherokees by blood from the [illegible] which is supplied with proper certificate of the birth of [illegible] child, A Richard Clayton Duncan, this child also will [illegible] be listed for enrollment as a Cherokee by blood.

[illegible] Green, being first duly sworn, states that he is stenographer to the commission to the five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenograph notes thereof.

M D Green

Subscribed and sworn to before me this 24 day of September 1900.

C A Burrell

Commissioner.

D 386

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 1, 1900.

D. 386

In the matter of the application for the enrollment of John J. Dameron.

Additional testimony.

John J. Dameron, being sworn and examined by Commissioner Breckenridge, testified as follows:

Q What is your name? A John J. Dameron.
Q How old are you? A 38 years old.
Q What is your post office? Q White Oaks.
Q In what district do you live? A Coweescoowee.
Q You appear to present some additional testimony, do you? A Yes, sir
Q In whose case is it, your wife? A Yes, sir.
Q What is her name now? A Luella Dameron.
Q She was divorced from her former husband, was she? A Yes, sir.
Q What was his name? A Joseph Raines.

(The applicant presents an official copy of the records of Coweescoowee district, showing that in the case of Louella Raine vs. Joseph Raine, judgment for plaintiff by default, this being from the records of the May Term, of the district Court, 1891. This is is supplied by the Assistant Executive Secretary, under the seal of his office, and it is filed herewith, to go as additional testimony inn the application for the applicant's own enrollment.

---o---

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the ~~end of October~~, 1900.

J. Blake

Commissioner.

8386

"R"

D 386

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 26, 1902.

In the matter of the application of John J. Cameron, for the enrollment of himself as a citizen of the Cherokee Nation:

Applicant was notified by registered letter on February 10, 1902, that his application to be enrolled as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 26th day of February, 1902, and that he could, upon said date, appear before the Commission either in person or by attorney, and an opportunity would be given him to introduce any further testimony affecting his application.

Receipt has been acknowledged of the Commission's letter.

The applicant was called three times this day, to-wit: the 26th day of February, 1902, and failing to respond either in person or by attorney, the case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

R.

DEPARTMENT OF THE INTERIOR.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, October 6th, 1902.

In the matter of the application of John J. Dameron for the enrollment of himself as a citizen by intermarriage of the Cherokee Nation.

Supplemental to D-386.

Applicant appears in person.
Cherokee Nation by J. C. Starr.

JOHN J. DAMERON, being duly sworn, testified as follows:
Examination by the Commission.

Q. What is your name, please? A. John J. Dameron.
Q. What is your age at this time? A. I think I am going on 4o.
Q. Post office? A. Whitecak.
Q. Are you the same John J. Dameron for whom application was made to this Commission for enrollment as an intermarried citizen on September 22nd, 19oo? A. I suppose I am.
Q. You made application about that time? A. Yes, sir.
Q. What is your wife's name? A. Louella.
Q. Is she living at this time? A. Yes, sir; she is right there at home.
Q. When were you and your wife married? A. I think we was married in '92.
Q. Were you married under a Cherokee license? A. Yes, sir.
Q. Is your wife a citizen by blood of the Cherokee Nation?
A. Yes, sir; supposed to be.
Q. Have you and your wife lived together continuously from the time you were married up to the present time as husband and wife?
A. Yes, sir.
Q. Never been separated during that time? A. No, sir.
Q. You have never married any other owman since your marriage to your wife Louella? A. No, sir.
Q. You were living together on the first of September, 1902?
A. Yes, sir.
Q. How long have you lived in the Cherokee Nation? A. Came here in '87.
Q. Lived here all the time since 1887? A. Yes, sir.
Q. How long has your wife lived here? A. I suppose she was raised here.
Q. Never been out? A. No, sir.
Q. Got any children? A. Four
Q. Are they all living? A. Yes, sir.

++++++++++++++++++++++++++++++++++++++

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 31st day of October, 1902.

B. B. Jones
Notary Public.

X 386

Enr H-229

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of John J. Dameron as a citizen by intermarriage of the Cherokee Nation.

D E C I S I O N.

The record in this case shows that on September 22, 1900, Louella Dameron appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment, among others, of her husband, John J. Dameron, as a citizen by intermarriage of the Cherokee Nation. Further proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 6, 1902. The other applicants are differently classified and are not embraced in this decision.

The evidence shows that John J. Dameron was lawfully married under a Cherokee marriage license, and in accordance with the laws of the Cherokee Nation, on June 6, 1892, to one Mrs. Louella Raines, a citizen by blood of the Cherokee Nation, and who is identified on the Cherokee Authenticated Roll of 1880. It further appears that said Mrs. Louella Raines, prior to her marriage to Dameron, was divorced in May, 1891, from a former husband, one Joseph Raines. Said John J. Dameron is identified on the Cherokee Census Roll of 1896.

The evidence further shows that the said John J. Dameron has lived continuously with his wife in the Cherokee Nation since the date of his marriage to her up to and including September 1, 1902.

It is, therefore, the opinion of this Commission that John J. Dameron should be enrolled as a citizen by intermarriage of the Cherokee Nation, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SEAL) Tams Bixby
Acting Chairman.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this DEC 10 1902

COMMISSIONERS:
HENRY L. DAWES
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-386.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, December 15, 1902.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated December 10, 1902, granting the application of Louella Dameron for the enrollment of her husband, John J. Dameron, as a citizen by intermarriage of the Cherokee Nation.

You are advised that you will be allowed fifteen days from date hereof in which to file such protest as you desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. H-229.

IR

D 385

IN THE MATTER OF THE APPLICATION OF

John J. Cameron

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A - Original testimony - September 22, 1900
B - Memo of application - " 22, 1900
C - Additional testimony - October 1, 1900
D - Certified copy of judgment of Court
E Notice of final consideration 2/26/02
F Order closing testimony 2/26/02
G

See Cherokee Card # 9745

Cher D 387

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPT/~~7~~,22, 1900.

In the matter of the application of Hiram Blackfish for enrollment as a citizen of the Cherokee nation, said Blackfish being sworn by Commissioner Breckinridge, testified as follows:

Q What is your name? A Hiram Blackfish.
Q What is your age? A 48.
Q Your postoffice? A Seneca, Mo.
Q In what district do you live? A I live among the Peoria Tribe of Indians.
Q Where is their territory? A About five miles north-west of Seneca.
Q In Missouri? A In the Indian territory under the Paw-paw Agency.
Q Who is it you want to have put on the roll? A Myself.
Q What do you call yourself? A A Shawnee.
Q You do not live in the Cherokee nation at all? A No sir, not for the last 13 years.
Q You have been living out? A Yes. I lived at White Oak for three---, but by request of Agent Sommers to move my folks back for fear they would be ruled out, I moved back and have been back there ever since.
Q Are you on the roll of '80? A No sir, I think not.
Q Are you on the roll of '96? A No sir.
Q Have you ever been admitted as a Cherokee citizen? A Yes.
Q How? A I was registered in '70.
Q And you didn't stay here to get on the roll of '80? A No sir.
Q You have not been living here for 13 years? A No sir.
Q Have you any evidence that you were admitted back in '70? A None that I can produce.
Q Did you draw strip money in '94? A Yes.
Q You are on that roll? A Yes.
Applicant on Cherokee-Shawnee pay-roll of '96, page 6, number 116.

The applicant claims to be an admitted Shawnee and to have come with the Shawnees in '70. He states that he is not on the roll of '80 nor on the census roll of '96; that he has not lived in the Cherokee Nation for the last 13 years, but has lived in the Peoria Nation. He is identified on the Shawnee-Cherokee pay-roll, approved 1896, but in view of the doubts as to his residence, his application will be placed upon a doubtful card.

By J. L. Baugh, Cherokee Attorney:
The Cherokee Nation claims that under Section 21 of the Curtis Act that he is not entitled to enrollment. That part of the provision which says that "no person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship."

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

B McDonald

Subscribed and sworn to before me this 24th day of September, 1900.

Commissioner.

D 387

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

ACTING CHAIRMAN.

"B"

D 387

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 26, 1902.

In the matter of the application of Hiram Blackfish, for the enrollment of himself as a citizen of the Cherokee Nation:

The applicant was notified by registered letter on February 10, 1902, that his application for enrollment as a citizen of the Cherokee Nation would be taken up by the Commission for final consideration on the 26th day of February, 1902, and that he could on said date appear before the Commission and introduce any further testimony affecting his case.

The applicant having been called three times this day, to-wit: the 26th day of February, 1902, and failing to respond either in person or by attorney, the case is ordered closed and reported to the Commission for final decision based upon the evidence now of record.

Commissioner.

Cherokee D. 587.

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

In the matter of the application for the enrollment of Hiram Blackfish as a citizen of the Cherokee Nation of Shawnee blood.

D E C I S I O N.

The record in this case shows that on September 22, 1900, Hiram Blackfish appeared before the Commission at Vinita, Indian Territory, and made personal application for the enrollment of himself as a citizen of the Cherokee Nation of Shawnee blood.

The evidence in this case shows that Hiram Blackfish is a Cherokee citizen of Shawnee blood. From an examination of the printed list of Shawnees, in the possession of this Commission, who removed to and located in the Cherokee Nation within two years of an agreement by and between the Cherokee Nation and the Shawnee Tribe of Indians, entered into on June 7, 1869, and approved by the President of the United States on June 9, 1869, it appears that Hiram Blackfish is identified thereon. He is also identified on the Cherokee-Shawnee pay roll of 1896.

The evidence further shows that the said Hiram Blackfish has resided in the Indian Territory continuously for thirteen years next preceding the date of this application.

It is, therefore, the opinion of this Commission that Hiram Blackfish should be enrolled as a citizen of the Cherokee Nation of Shawnee blood, in accordance with the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so entered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.
Acting Chairman.

(SIGNED). T. B. Needles.
Commissioner.

(SIGNED). C. R. Breckinridge.
Commissioner.

Dated at Muskogee, Indian Territory,

this JAN 30 1903

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Vinita, I.T., February 7th.,1905.

IN THE MATTER OF THE APPLICATION FOR ENROLLMENT OF HIRAM BLACKFISH AS A CITIZEN OF THE CHEROKEE NATION BY CHAMBERS BLOOD.

Cherokee D-387

PROTEST OF THE CHEROKEE NATION

Comes now the Cherokee Nation and respectfully protests against the decision of the Commission rendered in this case on January 20th., 1905, and asks that the same be forwarded to the Hon. Secretary of the Interior for review.

The testimony in this case shows that Hiram Blackfish resides with the Peoria Tribe of Indians, where he has resided for at least the past fifteen years. His name does not appear upon any roll made by the Cherokee Nation, and the Cherokee Nation contends that under the Act of May 31st.,1900, that the Commission is without jurisdiction to receive, consider or make any record whatever of his application.

Again, the Act of Congress of date June 28th.,1898 says:

> "No person shall be enrolled who has
> "not heretofore removed to, and in good
> "faith settled in the Nation in which he
> "claims citizenship".

The testimony shows that this man has not been identified with the Cherokee Nation for at least the past thirteen years, and so far as the Cherokee rolls are concerned, they show that he has not been identified with the Cherokee Nation.

Now, the word Nation is defined in the late Cherokee agreement submitted to the Cherokee Nation on July 1st.,1902 by the Congress of the United States, in Section 1, to mean "The Cherokee Nation". This definition, in connection with the above clause quoted from the Curtis Bill, together with the fact that his name appears upon no roll, clearly, we think, shows that he is not entitled to be enrolled as a citizen of the Cherokee Nation.

Respectfully submitted,

W. W. Hastings

Attorney for The Cherokee Nation

ATTORNEYS

L. B. BELL

W. W. HASTINGS

J. S. DAVENPORT

J. C. STARR, SECRETARY

...OFFICE OF...

ATTORNEYS FOR THE CHEROKEE NATION

CHEROKEE FREEDMEN ENROLLMENT

No. F. D.

Seneca Indian Training School, Wyandotte,
Quapaw Agency, I. T., February 28, 1909.

Mr. J. C. Starr, Atty.,
Muskogee, I. T.

Sir:

In reply to your several letters of inquiry of recent date concerning certain parties, I have to state the following:

Albert Pacheal, Indian name was Wa-ve-a-se-tah, received an allotment of 200 acres in the Peoria Reservation, in this Agency. The names of Alameda Pacheall, Annie Longtail, Jesse Squirrel, Jesse Squirrel, and Rebecca Rogers I do not find on any of the rolls here.

The names of Susan Daugherty, Susan Day, Susan Huff and Annie Wade are not found on any of the Rolls.

Irem Blackfish resides in this agency, having married an allottee of this agency, but received no allotment here nor has he ever drawn any annuity on the rolls of this Agency.

James Peacock, a Wyandotte, adopted by the Senecas and received an allotment with the Seneca tribe, in this Agency. He left here several years ago and is said to have married a Delaware woman.

Very respectfully,

(Signed) P. M. G. WILLIS,
Clerk in Charge.

O--O--P--Y.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-387

Muskogee, Indian Territory, January 31, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 30, 1903, granting the application of Hiram Blackfish for the enrollment of himself as a citizen of the Cherokee Nation of Shawnee blood.

You are hereby advised that you will be allowed fifteen days from date hereof, in which to file such protest as you may desire to make against the action of the Commission in this case, a copy of which protest you will be required to serve upon the applicant. If you fail to file protest within the time allowed, this decision will be considered final.

Respectfully,

Acting Chairman.

Enc. M-7173

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D 387.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, April 7, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 30, 1903, granting the application of Hiram Blackfish for the enrollment of himself as a citizen of the Cherokee Nation of Shawnee blood, was affirmed by the Secretary of the Interior on March 26, 1903.

Respectfully,

C. R. Breckinridge.

Commissioner in Charge.

~~Chairman.~~

ATTORNEYS:
L. B. BELL,
W. W. HASTINGS,
JAMES S. DAVENPORT.

J. C. STARR, SEC.

OFFICE OF

ATTORNEYS FOR CHEROKEE NATION

BEFORE THE DAWES COMMISSION, CHEROKEE FREEDMEN ENROLLMENT.

Please return this letter with your reply or mention this Number: F. D. C. D. 387.

Muskogee, I. T., Feb. 21, 1903.

U. S. Indian Agent,
Wyandotte, I. T.

Dear Sir:

A man by the name of Hiram Blackfish, whose age is 48 and whose post-office is Seneca, Mo., has applied to the Commission for enrollment as a citizen by Shawnee blood of the Cherokee Nation. He states that he has lived in the Peoria Nation for the last 13 years, and his name appears upon the register of Shawnees who came to the Cherokee Nation in 1870. He is not identified upon the 1880 or 1896 rolls. He is identified upon the Cherokee-Shawnee pay roll of 1896, and we desire to know if he is carried upon your pay rolls and if he has at any time since 1870 received an allotment in the Peoria or Shawnee Nations in your jurisidiction.

Yours truly,

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

Cherokee D-387

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, February 24, 1903.

W. W. Hastings,

Attorney for the Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission has this day transmitted to the Secretary of the Interior, for review, the record of proceedings had in the matter of the application of Hiram Blackfish for the enrollment of himself as a citizen of the Cherokee Nation of Shawnee blood, including the Commission's decision, dated January 30, 1903, granting said application, and the protest of the Cherokee Nation against said decision, dated February 9, 1903.

The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Chairman.

IN THE MATTER OF THE APPLICATION OF

Hiram Blackfish

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony September 22, 1900
B. Memo of application " 22, 1900
C. Notice of final consideration 2/26/02
D. Order closing testimony 2/26/02

Cases [illegible]
to Ch[illegible]

[illegible]

Cher D 388

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., SEPT., 22, 1900.

In the matter of the application if James D. Rolston for enrollment of himself as a citizen of the Cherokee nation, said Rolston being sworn by Commissioner Breckinridge, testified as follows:

Q What is your name? A James D. Rolston.
Q What is your age? A 49.
Q Your postoffice? A Vinita.
Q In what district do you live? A Delaware.
Q Whom do you want to have put on the roll? A Myself.
Q Do you apply as a Cherokee by blood? A Yes.
Q What proportion of Cherokee blood do you claim? A 1/16.
Q How long have you lived in the Cherokee Nation ? A 14 or 15 years.
Q Are you an admitted citizen? A yes.
Q Let me see your certificate? A I haven't got it; I sent it to Washington and they never sent it back.
Q Is it on file at Washington? A Yes.
Q When did you send your certificate of Washington? A Four or five years ago.
Q Why did you send it there? A To get some money that was appropriated to pay the Eastern Cherokees-- removal money.
Q Have you lived in the Cherokee nation since '87? A Yes.
Q Never have lived out of the Cherokee nation? A No sir.
Q What is the name of your father? A Louis.
Q Cherokee or white man? A White man.
Q Dead or alive? A Dead.
Q How long has he been dead? A 20 years.
Q What is your mother,s name? A Elizabeth.
Q Cherokee? A yes.
Q Dead or alive? A Dead.

Applicant on '96 roll, page 242, number 4024as Ralston.

The applicant is identified on the roll of '96 as a native Cherokee. He claims to have been admitted by the Cherokee Commission or Council in '87, and that the certificate of admission is now in the Interior department at Washington City. He has lived in the Cherokee Nation ever since his admission in '87, but ina order to consult the records or to receive from him an official copy of the act of his admission, his application will at this time be placed upon a white card, and the final decision of the Commission will be communicated to him at his postoffice address.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

P Breckinridge

Subscribed and sworn to before me this 24th day of September, 1900.

C A Bennett
Commissioner.

0388

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 24 1900

ACTING CHAIRMAN.

Cherokee D 388

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 1, 1902

In the matter of the application of James D. Ralston for enrollment as a Cherokee citizen.

Supplemental Statement.

---oOo---

There has been filed with this Commission a copy of the records of the Cherokee Commission on Citizenship in the case of James D. Ralston against the Cherokee Nation, certified by D.W. Alberty, Assistant Executive Secretary of the Cherokee Nation, under the seal of the Cherokee Nation, to be a true copy of such record, from which it appears that James D. Ralston was re-admitted on October 12, 1887 to all the rights and privileges and immunities of Cherokees by blood; said record being signed by D. W. Lipe, Acting Chairman of the Commission and John E. Gunter, Commissioner.

It is directed that copies of this statement be filed with the testimony in the above case.

Commissioner.

C7287

Cherokee D 388.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of James D. Ralston, for enrollment as a Cherokee citizen.

On the 22nd day of September, 1900, James D. Ralston appeared before the Commission to the Five Civilized Tribes, and made application for the enrollment of himself as a citizen by blood of the Cherokee Nation.

At the conclusion of the evidence offered at that time the name of James D. Ralston was placed upon a "Doubtful" card awaiting proof of his admission to citizenship in the Cherokee Nation as alleged.

Further evidence in that matter has been submitted to the Commission and the following decision is rendered.

D E C I S I O N.

--oOo--

From all the evidence of record in this case it appears that James D. Ralston was re-admitted to citizenship in the Cherokee Nation by an Act of the Cherokee National Council on the 12th day of October, 1887. He has resided in the Cherokee Nation since the date of his re-admission and is identified on the Cherokee Census roll of 1896.

In making rolls of citizenship of the Cherokee Nation this Commission is governed by the following provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495):

"That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty, (not including freedmen) as the only roll intended to be confirmed by this and preceding acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation

whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

In view of the facts and the law in this case it is considered that James M. Ralston is entitled to be enrolled as a citizen by blood of the Cherokee Nation, and it is so ordered.

Commissioners.

Dated at Muskogee, Indian Territory,

MAY 20 1902

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

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

REFER IN REPLY TO THE FOLLOWING

D. 336.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 21, 1902.

W. W. Hastings, Esq.,

Attorney for the Cherokee Nation.

Sir:

Enclosed herewith please find copy of a decision of the Commission rendered May 20th, in the matter of the application of James D. Ralston for the enrollment of himself as a citizen of the Cherokee Nation.

You are hereby advised that you will be allowed fifteen days from the date hereof in which to file with the Commission such protest as you desire to make against the enrollment of the above person as a citizen of the Cherokee Nation. If you fail to file the protest within the time allowed this applicant will be regularly listed for enrollment.

Very respectfully,

Commissioner in Charge.

Encl. D-336.

IN THE MATTER OF THE APPLICATION OF

James D. Ralston

FOR ENROLLMENT AS

CHEROKEE CITIZENS.

A. Original testimony. September 22, 1900
B. Memo of application. " 22, 1900
C. Certified copy of order of readmission

Copy [illegible]

Sept. 17, 1902 Cancelled and transferred to C Cherokee Card No. 95

Enrolled

END
OF
ROLL